

CUSTOMS AND EXCISE ACT

(ACT NO 91 OF 1964)

RULES

[Date of Commencement: 1 January 1996]

CHAPTER 1

GENERAL PROVISIONS

00.01 In these rules “the Act” means the Customs and Excise Act, 1964, and any definition in that Act shall, unless the context otherwise indicates, apply to these rules.

00.02 Any reference in these rules to any section, to Schedule No. 1, 2, 3, 4, 5, 6 or 8 and to any heading, item or code shall be deemed to be a reference to such section of, Schedule to, or heading or item or code in the Act.

00.03 Any person who conducts any business with the Office shall at his own expense provide all the relative forms prescribed in paragraph 202.00 of the Schedule hereto as well as any other forms prescribed from time to time and any reference in these rules to a form and the number or lettering thereof shall unless otherwise indicated, be deemed to be a reference to such forms.

Declaration of goods removed between the Republic and Botswana, Lesotho, Namibia and Swaziland for the purposes of Value-Added Tax

00.04 Rules regarding the importation of “commercial goods” into the Republic from Botswana, Lesotho, Namibia or Swaziland as well as rules regarding the declaration procedures for the exportation of “commercial goods” from the Republic into Botswana, Lesotho, Namibia or Swaziland, are contained in Chapter XIIA of these rules.

00.05 **Rules regarding the implementation of SAD forms**

- (a) With effect from 1 October 2006 for the purposes of any rule published under any section of the Act, unless otherwise specified or the context otherwise indicates -
- “**bill of entry**” includes a SAD form and a SAD form includes a bill of entry used for the same purposes before 1 October 2006;
- “**entry**” or “**entered**” in respect of goods includes a declaration of goods or goods declared on the appropriate SAD form and “**declaration**” or “**declared**”, respectively includes “**entry**” or “**entered**”.
- (b) The appropriate SAD form shall be used in substitution of bills of entry listed in paragraph (d).
- (c) Any bill of entry may be amended by a SAD Voucher of Correction.
- (d) The following table states the bills of entry and the CCA1 declaration substituted by the appropriate SAD form used for the same purposes with effect from 1 October 2006:

DA 500	Bill of Entry (direct)
DA 501	Continuation Sheet: Bill of Entry (direct)
DA 504	Voucher of Correction: Bill of Entry (direct)
DA 510	Bill of Entry (direct) Transfer of Liability
DA 514	Voucher of Correction: Bill of Entry (direct) Transfer of Liability
DA 550	Bill of Entry Export
DA 551	Continuation Sheet: Bill of Entry Export
DA 554	Voucher of Correction: Bill of Entry Export
DA 600	Bill of Entry (ex warehouse) Imported Goods
DA 601	Continuation Sheet: Bill of Entry (ex warehouse) Imported Goods
DA 604	Voucher of Correction: Bill of Entry (ex warehouse) Imported Goods
DA 610	Bill of Entry: South African Products (ex warehouse or fuel levy goods ex duty paid stocks)
DA 611	Continuation Sheet: Bill of Entry: South African Products (ex warehouse or fuel levy goods ex duty paid stocks)

DA 614	Voucher of Correction: Bill of Entry: South African products (ex warehouse or fuel levy goods ex duty paid stocks)
CCA1	Declaration of goods removed within the Southern African Common Customs Area

- (e) The following forms are prescribed for the purposes contemplated in these rules:
- (i) SAD 500 – Customs Declaration Form, which must be completed as prescribed for the clearance of goods for different purposes;
 - (ii) SAD 501 – Customs Declaration Form (Continuation Sheet), which must be completed if more than one item segment is declared;
 - (iii) SAD 502 – Customs Declaration Form (Transit Control), which must be used when transit goods are cleared for transit movement (clearance of goods in transit or goods moving from a warehouse facility across the South African borders);
 - (iv) SAD 503 – Customs Declaration Form (Bill of Entry Query Notification / Voucher of Correction), which must be used for purposes of correction of the CCA1 or SAD 500 where goods were cleared for movement between the SACU countries;
 - (v) SAD 505 – Customs Declaration Form (Bond and Transit Control), which must be completed when bonded goods are moved inland or across the BLNS borders (place of landing (entry) to a warehouse or between warehouses or from a warehouse to a place of exit); and
 - (vi) SAD 507 - Customs Declaration Form (Additional Information / Produced documents), which must be completed in instances where the space in any box on the SAD 500 and SAD 501 is insufficient.
- (f) Any provision in any rule relating to a form SAD 500, shall be deemed to include, unless otherwise specified or the context otherwise indicates, any other SAD – Customs Declaration Form prescribed for use in respect of any procedure to which the said form SAD 500 relates.

Rules for amendment of rules referring to purpose codes or stating the codes

- 00.06 Where any rule refers to "purpose code" followed by the code or states a purpose code in brackets after a form number or in any other way refers to a purpose code formerly published in the Schedule to the rules, such a rule, except if it states a purpose code

listed in item 202.02B, must be regarded from 1 November 2010 as referring to the codes published on the SARS website.

Investigations conducted in respect of applications for registration or licensing

- 00.07 (a) Before deciding whether to approve or refuse any application for registration or licensing the Commissioner may conduct investigations to—
- (i) verify the statements made by the applicant in the application; and
 - (ii) ascertain any facts relating to the activities in respect of which the registration or licence will operate, to the extent that the Commissioner may regard as being materially relevant for considering the application.
- (b) The applicant must make available books, accounts and other documents and furnish fully the information necessary to conduct such an investigation.”

Pro forma agreements and bonds

- 00.08 (a) Where the words pro forma appear in rules numbered 19A, 54F, 64B, 64D, 64E, 64F and 64G on any agreement, bond or other document used in connection therewith, those words must be omitted when that agreement or bond or other document is completed.
- (b) The agreements, bonds or other documents contemplated in paragraph (a) are available without the words pro forma on the SARS website or at any SARS branch office.

CHAPTER II

ADMINISTRATION, GENERAL DUTIES AND POWERS OF COMMISSIONER AND OFFICERS, AND APPLICATION OF ACT

No rule promulgated

CHAPTER III
IMPORTATION, EXPORTATION AND TRANSIT AND COASTWISE CARRIAGE
OF GOODS

RULE FOR SECTION 6 OF THE ACT

Appointment of places of entry, authorized roads and routes, etc.

- 6.01 The places, roads, routes, sheds, entrances and exits listed in paragraph 200.00 of the Schedule to the rules shall be the places, roads, routes, sheds, entrances and exits appointed or prescribed under the provisions of section 6 of the Act and their use or employment for the purposes for which they have been so appointed or prescribed shall be subject to the conditions stated in the said Schedule.

RULES FOR SECTION 7 OF THE ACT

Report of arrival or departure of ships or aircraft

- 7.01 Report in terms of section 7(1) of the arrival of a foreign-going ship, except ships exempted from such report in these rules, shall be made on a form DA 1 (Report Inwards/Outwards for Ships) prescribed in these rules and shall be accompanied by the following documents if such documents have not already been delivered to the Controller, but excluding any such document which the Controller does not require in respect of any such ship:
- (a) A list of the passengers, if any;
 - (b) application to land unmanifested break bulk cargo;
 - (c) income tax forms;
 - (d) a sealed transire (form DA 4) from each port in the Republic at which the ship has called on the voyage in question;
 - (e) a list of sealable goods (form DA 5);
 - (f) Post Office certificate;
 - (g) lists of all containers on board which are –
 - (i) consigned to that place of entry;
 - (ii) destined for each terminal or depot to which containers are to be delivered for customs entry purposes;
 - (iii) for direct trans-shipment by ship from the port of discharge to a destination outside the Republic; and

- (iv) empty containers,

Such lists shall reflect –

- (aa) the name of the vessel and the voyage number;
 - (bb) the container serial numbers and bill of lading numbers;
 - (cc) the classes of the containers;
 - (dd) the destination of each container; and
 - (ee) the container operator responsible for the containers until their export from the Republic,
- (h) a manifest of all non-containerised goods consigned to that place of entry and in the case of LCL and FCL containers a separate container manifest in respect of the cargo packed in each such container which shall specify –
- (i) the name of the vessel and the voyage number;
 - (ii) the container serial number and seal number;
 - (iii) the place of loading and the place of discharge;
 - (iv) whether the container is manifested for direct delivery to the importer from a container terminal or for direct delivery to a container depot;
 - (v) in respect of each consignment in the container –
 - (aa) the marks and numbers of the packages;
 - (bb) the number and description of the packages;
 - (cc) the description of the goods;
 - (dd) the bill of lading number;
 - (ee) the name and address of the consignee;
 - (ff) the name of the shipper or his agent;
 - (vi) the total number, mass and measurement of packages.

7.02 Report of arrival in terms of section 7(1) of a coasting ship referred to in section 14 shall be made on a form DA 1 (Report Inwards/Outwards for Ships) prescribed in these rules and shall be accompanied by the following documents:

- (a) A sealed transire (Form DA 4 prescribed in these rules) from each port in the Republic at which the ship has called on the voyage in question; and
- (b) an application to land cargo.

7.03 The provisions of rule 7.01 (b) to (h) shall also apply to coasting ships referred to in section 14.

- 7.04 Report of arrival in terms of section 7(1) at a Customs and Excise airport of an aircraft, except aircraft exempted from such report in these rules, shall be made on a form DA 2 (Report Inwards/Outwards for Aircraft) prescribed in these rules and shall in instances where cargo is carried be accompanied by a manifest of cargo consigned to that airport.
- 7.05 Report in terms of section 7(3) of the departure of any ship to a port or place outside the Republic, except ships exempted from such report in these rules, shall –
- (a) before departure be made on a form DA 1 (Report Outwards for Ships) and shall be accompanied by the following documents:
 - (i) A certificate of clearance for a destination outside the Republic (form DA 3);
 - (ii) a separate form DA 4 (Transire – for a Destination in the Republic) in respect of each destination together with a manifest of cargo carried coastwise in the Republic;
 - (iii) Post Office Certificate, if not exempted;
 - (iv) Portnet Clearance Certificate;
 - (v) Department of Home Affairs Certificate (form B1.92);
 - (vi) income tax form; and
 - (vii) safety certificates in respect of radio, load line, equipment, oil pollution prevention, cargo safety construction and passenger safety; and
 - (b) after departure, within fourteen days, deliver to the Controller a manifest of cargo shipped at that place.
- 7.06 Report in terms of section 7(3) of the departure of an aircraft to a place outside the Republic, except aircraft exempted from such report in these rules, shall before departure be made on a form DA 2 (Report Inwards/Outwards for Aircraft) and shall be accompanied by a manifest of cargo on board.
- 7.07 If any report required in terms of the Act is found to be in any way incomplete or incorrect, the Controller may permit the master or pilot concerned to amend such report.
- 7.08 The Controller may prohibit the departure of any ship or aircraft from any place unless evidence has been produced that the master or pilot of such ship or aircraft has complied with the provisions of all laws of the Republic with which it was his duty to comply.

- 7.09 No ship in respect of which a certificate of registry has been issued in terms of section 23 of the Merchant Shipping Act, 1951 and exclusively engaged in fishing, sealing or collecting and transporting guano or the recovery of rough diamonds on or off the coast of the Republic, the home port of which is either permanently or temporarily a place in the Republic, shall leave such place without a transire in terms of section 7(10).
- 7.10 The transire referred to in rule 7.09 may be granted for a period not exceeding three months and to such transire shall be sealed a list giving full particulars of the engine fuel used by such ship and in respect of which a refund of duty will be claimed and such transire shall specifically stipulate that the ship shall not visit any port or place outside the Republic.
- 7.11 The master of a ship referred to in rule 7.09 shall, unless exempted by the Controller, keep a logbook in which he shall record –
- (a) the movements or position of his ship from day to day; and
 - (b) the name of any place called at, whether any landing was effected or not, and the particulars of any goods landed or shipped.
- 7.12 When a ship referred to in rule 7.09 calls at any place (except its home port) where there is a Controller the master shall as soon as possible after the arrival of the ship submit the transire and his logbook to the said Controller and the said master shall not proceed to sea with such ship unless he is in possession of the said transire suitably endorsed by the Controller.

Exemption of ships/aircraft from report

- 7.13 The following ships and aircraft are exempted from reporting inwards or outwards as required by section 7(1) and (3):
- (a) Naval ships;
 - (b) Naval and military aircraft;
 - (c) Ships which usually return to the port of departure within 24 hours;
 - (d) Ships referred to in rule 7.09 in respect of which a transire in terms of section 7(10) has been issued; and
 - (e) Pleasure ships, not exceeding 100 tons gross, proceeding to or arriving from other South African ports only.

**Special provisions in respect of the report of arrival of a foreign fishing vessel
from which fish will be landed for storage as contemplated in section 21(3)**

- 7.14 (a) Where the master of a foreign fishing vessel from which fish will be landed for storage as contemplated in section 21(3), or the master's agent appointed in terms of section 97, reports the arrival of the vessel, form DA 1 must, in addition to any other document required in terms of rule 7.01, be accompanied by a duly completed Cargo Declaration DA 1A which shall be deemed to be a manifest for the fish landed from such vessel.
- (b) Form DA 1A must be amended and submitted to the Controller, after sorting of the fish in an export storage warehouse as contemplated in the rules for section 21(3), not later than three days after receipt of the account (DA 1B) contemplated in rule 21.03.09(b)(ii)(bb).

RULES FOR SECTION 8 OF THE ACT

Reports of cargo landed and unpacked and packed or loaded

8.01 Application of provisions

- (a) These rules prescribe reporting requirements contemplated in section 8 -
- (i) in respect of cargo imported by ship on any particular voyage;
 - (ii) in respect of cargo imported by aircraft on any particular flight;
 - (iii) in respect of cargo imported by rail;
 - (iv) in respect of cargo imported by road; and
 - (v) for the effective operation of the Manifest Acquittal System.
- (b) Nothing contained in these rules shall be construed as affecting in respect of such cargo -
- (i) the liability of any person for any duty or the circumstances in which such liability ceases as contemplated in section 44;
 - (ii) unless such rules otherwise provide, the fulfilment by any person of any obligation imposed under any other provision of this Act.
- (c) Any cargo report shall contain the information specified in the annexure which shall be deemed to be part of these rules.

8.02 Definitions

In these rules and any form or other document relating to section 8 and such rules, any word or expression to which a meaning has been assigned in the Act shall, except if otherwise

specified in any definition in this rule or any other rule, bear the meaning so assigned and unless the context indicates otherwise-

"aircraft" means an aircraft arriving in the Republic, on a flight from a place outside the common customs area, which must first land at an airport or an aircraft departing from the Republic on a flight to a place outside the common customs area;

"airline" means any transport enterprise offering or operating an international air service;

"airport" means a customs and excise airport appointed by rule in terms of section 6(e);

"airport authority" means the authority in control of any customs and excise airport;

"annexure" means the annexure to these rules;

"arrival" means the time when a vessel or aircraft first comes into the control area of a port or airport;

"arrival report" means a report prescribed in the annexure for reporting the arrival of a foreign-going vessel at a port or an aircraft at an airport in the Republic;

"break bulk cargo" means general cargo shipped in separate packages stowed in or on the carrying vessel or vehicle;

"bulk cargo" means a large quantity of unpacked dry or liquid homogeneous cargo shipped loose in the hold of a vessel or transported by a vehicle or in a container or in any other receptacle;

"cargo" means goods whether or not containerised that the carrier has arranged to be carried and are carried by a ship or any vehicle on a journey from a port or place outside the common customs area and which are intended to be unloaded from such ship or such vehicle at a port or place in the Republic other than-

- (a) goods that are accompanied personal effects of a passenger or a member of the crew;
- or
- (b) ship's or aircraft stores;

"cargo carrier" includes any person, other than a carrier, who concludes a contract of carriage with a shipper and in whose name or on whose behalf a contract of carriage is concluded with a carrier or a master cargo carrier or any other cargo carrier for the carriage of the cargo to a port or other place of discharge in the Republic including any agent of such person;

"cargo report" means any report prescribed in the annexure to these rules that must be submitted for the purposes of the Manifest Acquittal System (MAS) or to a Controller;

"cargo reporter" means any person who is required to furnish a cargo report;

"carrier" includes any person who owns, operates, rents or charters a vessel or vehicle, any such person who concludes a contract of carriage with a shipper, a cargo carrier or a master cargo carrier for the carriage of the cargo to a port or other place of discharge in the Republic, and any agent of such a person;

"consolidated cargo" means cargo from several consignors which is consolidated as contemplated in the definition of "groupage operator";

"container" means transport equipment as defined in section 1(2);

"container terminal operator" means the person who is in control of and who operates a container terminal contemplated in section 6(1)(hA);

"courier" means any person who offers a fast or express parcel service by air;

"customs and excise laws and procedures" shall have the meaning assigned thereto in rule 59A.01(a);

"degrouper operator" means the person in control of a degrouper depot and from the date such person is required to licence as contemplated in section 64G(1)(b), the licensee of such depot;

"discharge list" means the list of containerised cargo discharged from a ship prescribed in the annexure;

"electronically submitted" and cognate expressions relating to electronic communication means the electronic communication between a user and the Commissioner, the Controller or

an officer in accordance with the provisions of section 101A, its rules, the user agreement contemplated in that section and the user manual referred to in such agreement;

"empty container list" means a report prescribed in the annexure to the rules in respect of empty containers landed at a port in the Republic;

"FCL container" means any container containing goods from one or more exporters to one importer;

"FCL (groupage) container" means any container packed by a groupage operator that consists of cargo from several exporters consolidated into a full container load for several importers;

"foreign-going vessel" means a ship arriving at a port in the Republic on a voyage from a port outside the common customs area or departing from a port in the Republic on a voyage to a port outside the common customs area;

"gate in" means a report of all containers received into a container terminal as prescribed in the annexure to the rules;

"gate out" means a report of all containers removed from a container terminal as prescribed in the annexure to the rules;

"groupage operator" means any person who consolidates cargo from several consignors into one shipment or full container load and who then issues each individual consignor with a transport document evidencing the contract of carriage;

"load list" means a list of containerised cargo loaded on board a vessel for shipment as prescribed in the annexure;

"manifest" means a report of all the cargo contracted for carriage by a carrier, a master cargo carrier or a cargo carrier for discharge at a port or airport or other place in the Republic and containing such information as prescribed in the annexure;

"Manifest Acquittal System (MAS)" means the computer system established by the Commissioner for the receipt and processing of the cargo reports provided for in section 8 and these rules;

"master cargo carrier" includes any person who concludes a contract of carriage with a shipper, carrier or cargo carrier for the carriage of cargo to a port, or airport in the Republic, an agent of such person, any shipping line and a container operator;

"outturn report" means a report prescribed in the annexure to these rules in respect of cargo landed from any foreign-going vessel or vehicle or unpacked from any container or consolidated air cargo;

"place of discharge" means a place appointed in terms of section 6 where cargo may be discharged from a vessel, ship or aircraft or goods entered for customs and excise purposes;

"place of loading" means a place outside the common customs area where the cargo is loaded on board a vehicle for carriage to a place of discharge in the Republic;

"port" means a port appointed as a place of entry in terms of section 6 where cargo is discharged in the Republic from a foreign-going vessel;

"port of loading" means the port outside the common customs area where the cargo is loaded on board a foreign-going vessel for carriage to a port of discharge in the Republic;

"railway authority" means Spoornet, a division of Transnet Ltd;

"road haulier" means the person in charge of a truck or other road vehicle and includes any agent of such person;

"schedule report" in relation to a report means a report prescribed in the annexure for reporting the original place of departure of a foreign-going vessel or aircraft on a journey to the Republic and listing all the ports or airports where it is scheduled to discharge or load cargo;

"shipping line" means any transport enterprise offering or operating an international shipping service;

"station" means a railway station or other railway premises under control of a railway authority where cargo is discharged;

"straight cargo" means air cargo consigned from one or more consignors to one consignee;

"the Act" includes any provision of "this Act" as defined in section 1;

"transhipment cargo" means cargo landed at a port in the Republic from a foreign-going ship for the purpose of transferring it to another ship for onward carriage to a destination outside the common customs area;

"transit shed" means a transit shed for goods imported by aircraft contemplated in sections 6(1)(g), 44(4) and 44(5C);

"transit shed operator" means the person in control of a transit shed;

"transport document" means a document evidencing a contract of carriage between a carrier, master cargo carrier or cargo carrier and a shipper such as a bill of lading or waybill;

"vehicle" means any aircraft, train or other vehicle defined in section 1 which carries any cargo;

"vessel" means any foreign-going ship;

"wharf" means a place where vessels may be berthed for the purposes of unloading or loading cargo; and

"wharf operator" means the person in control of any cargo on a wharf.

8.03 Registration

- (a) Any reference in these rules to a person required to submit a cargo report means a person registered in terms of these rules. Every person who is required to furnish a cargo report or any agent for such person must, notwithstanding being registered or licensed under any other provision of the Act, register-
- (i) as a cargo reporter in terms of these rules, and, in addition,
 - (ii) for the purpose of submitting any such report electronically, as a user and enter into a user agreement as prescribed in section 101A and its rules.

- (b) Every cargo reporter must be-
 - (i) a juristic person registered in the Republic in accordance with the laws of the Republic that has its place of effective management in the Republic; or
 - (ii) a natural person ordinarily resident in the Republic with a permanent business establishment in the Republic;
- (c)
 - (i) Any carrier, master cargo carrier, cargo carrier, container terminal operator, wharf operator or other principal who does not meet the qualifications specified in paragraph (b)(i), must appoint an agent in the Republic who is so qualified;
 - (ii) Any such agent must be duly appointed by the cargo reporter and must furnish a letter of appointment with the application for registration.
 - (iii) Any shipping line or airline which complies with the requirements for registration may apply for registration as a cargo reporter or an agent for such cargo reporter.
- (d) Any person applying for registration must apply on form DA 8 and the appropriate annexure and comply with all the requirements-
 - (i) specified therein and in these rules; and
 - (ii) as determined by the Commissioner.

8.04 Submission of cargo reports

- (a) Any person who is required to submit a cargo report in terms of these rules must –
 - (i) if a manifest for sea cargo, submit it on a form DA8D; and
 - (ii) if a manifest for air cargo, submit it on a form DA8E; and
 - (iii) in any other case, submit the report in such form as the Commissioner determines and containing the particulars, except if the Commissioner otherwise determines, specified in the annexure in respect of such report.

- (b) (i) A paper cargo report must be signed by a duly authorised person and must contain the following declaration:

"I,
(full name), for
.....
.. (Name of registered cargo reporter / agent) declare that -

- (a) I am duly authorised to make this declaration;
(b) The particulars furnished herein are true and correct and comply with the provisions of the Act.

.....
.....
Signature Capacity"

- (c) Where any person who is required to submit a cargo report in terms of these rules, appoints an agent to discharge or tally the cargo or to submit the report, such agent shall be liable for the fulfilment of all obligations imposed on such person by the Act, including these rules, in respect of -

- (i) the submission or contents of the report; and
(ii) any act done by such agent acting on behalf of such person in respect of the report or the goods concerned.

- (d) Notwithstanding paragraph (c), such person-
- (i) shall not be absolved from the fulfilment of any such obligations in respect of the contents or submission of the report;
- (ii) shall be liable for any act done by such agent acting on his or her behalf in respect of the report or the goods concerned.

8.05 Format and contents of cargo reports

A cargo report must-

- (a) if submitted electronically, be in the format and contain the information specified in the annexures and the user manual contemplated in the user agreement included in the rules for section 101A;
- (b) if submitted by paper document, be delivered to the Controller for capturing onto the Manifest Acquittal System and must, subject to such exceptions as the

Controller may allow, contain the particulars prescribed in the annexure and if a form is prescribed in the annexure, must be in such form.

8.06 Persons who are required to submit schedules and arrival reports and the time within which such reports must be submitted

Schedule Report

Vessel

- (a) (i) The carrier in respect of a vessel that is due to arrive with cargo for discharge at a port in the Republic on a voyage from a port outside the common customs area must submit a vessel schedule, if the duration of the voyage from the first port of departure on that voyage to its arrival at the first port of discharge in the Republic is likely to take-
 - (aa) more than 10 days, not later than 10 days before its arrival; or
 - (bb) less than 10 days, not later than 12 hours before its arrival.

Aircraft

- (ii) The airport authority must submit a schedule for every aircraft that is due to arrive at that airport on a flight from a place outside the common customs area with cargo to be discharged at that airport not later than 1 hour before its arrival;

Arrival Report

Vessel

- (b) (i) The arrival of such vessel at any port in the Republic must be reported-
 - (aa) for the purpose of the Manifest Acquittal System by the carrier within 3 hours after arrival; and
 - (bb) by the master as required in terms of rule 7.01, within the times prescribed in section 7(1).

Aircraft

- (ii) The arrival of an aircraft at any airport in the Republic must be reported-
 - (aa) for the purpose of the Manifest Acquittal System by the airport authority within 3 hours after arrival; and
 - (bb) by the pilot as required in terms of rule 7.04, within the times prescribed in section 7(1).

8.07 Persons who are required to submit manifest, pre-arrival manifest and empty container list reports and the time within which such reports must be submitted.

Manifest and empty container list

General

- (a) Any person submitting a manifest must ensure that the relevant Master Transport Document Number or Transport Document Number, as applicable, is unique and is not duplicated on another manifest before the expiry of a period of two years after submission of the original manifest with such number to the Manifest Acquittal System.

Manifest and empty container list

Vessel

- (b) (i) Import manifests for cargo carried by a vessel and intended for landing in the Republic must be submitted by-
 - (aa) the carrier, master cargo carrier or cargo carrier or the carrier, master cargo carrier and cargo carrier, whoever arranged for the carriage of the goods as evidenced by a transport document, in respect of-
 - (A) FCL containers;
 - (B) FCL (groupage) containers;
 - (C) LCL containers;
 - (D) transshipment cargo;
 - (E) break bulk and bulk cargo;
 - (bb) the groupage operator in respect of FCL (groupage) containers; and

- (cc) except if a manifest has been submitted by any carrier or master cargo carrier, the container operator in respect of FCL containers, FCL (groupage) containers, LCL containers and any containerised transshipment cargo.
- (ii) Empty container lists in respect of empty containers on such vessel that are not carried as cargo and are intended for landing at a port in the Republic must be submitted by-
 - (aa) the carrier; or
 - (bb) the container operator.
- (iii) Notwithstanding subparagraphs (i) and (ii) the Commissioner may authorise any other person to submit such manifests or container lists.

Time within which the manifest or empty container list must be submitted

- (iv) Subject to such other periods or exemptions as the Commissioner may authorise, such manifests or container lists in respect of such cargo or empty containers must be submitted by the persons concerned in respect of cargo imported by ship, where the duration of the voyage of such vessel from the port of loading of the goods to which the manifest relates to its arrival at the first port of discharge in the Republic is likely to take-
 - (aa) not less than 96 hours, not later than 72 hours prior to such arrival;
 - (bb) between 72 and 24 hours, not later than 12 hours prior to such arrival;
 - (cc) less than 24 hours, not later than 6 hours prior to such arrival.

Aircraft

Pre-Arrival Manifest

- (c) (i) Pre-arrival manifests for cargo carried by an aircraft and intended for landing in the Republic must, subject to such exceptions as the Commissioner may authorise, be submitted by the-
 - (aa) carrier; or
 - (bb) master cargo carrier.

Time within which pre-arrival manifests must be submitted

- (ii) Pre-arrival manifests must be submitted-
 - (aa) not later than 4 hours before the arrival of the aircraft at the first place of discharge in the Republic where the journey from the place of loading, to which that manifest relates, to the first place of discharge in the Republic is likely to take not less than 6 hours;
 - (bb) not later than 2 hours before the arrival of the aircraft at the first place of discharge in the Republic where the journey from the place of loading, to which that manifest relates, to the first place of discharge in the Republic is likely to take between 6 and 4 hours;
 - (cc) not later than 1 hour before the arrival of the aircraft at the first place of discharge in the Republic where the journey from a place of loading, to which the manifest relates, to the first place of discharge in the Republic is likely to take between 4 and 2 hours;
 - (dd) not later than 30 minutes before the arrival of the aircraft at the first place of discharge in the Republic where the journey from the place of loading, to which that manifest relates, to the first place of discharge in the Republic is likely to take less than 2 hours.

Final manifest

- (iii) Final manifests for cargo carried by an aircraft and intended for landing in the Republic must be submitted by the-
 - (aa) carrier;
 - (bb) master cargo carrier;
 - (cc) cargo carrier;
 - (dd) groupage operator in respect of consolidated cargo; and
 - (ee) courier in respect of fast or express parcels.

Time within which final manifest must be submitted

- (iv)
 - (aa) Final manifests of cargo imported by aircraft must be submitted by the carrier or master cargo carrier not later than 3 hours after the arrival of the aircraft at the first place of landing in the Republic.
 - (bb) Final manifests of cargo imported by aircraft must be submitted by the cargo carrier, groupage operator and courier within the times specified in subparagraph (ii) for pre-arrival manifests.

Rail
Manifest

- (d) (i) Manifests for cargo imported by rail and intended for discharge in the Republic must be submitted by the railway authority in respect of all cargo carried on the train.

Time within which manifest must be submitted

- (ii) Manifests for cargo imported by rail must be submitted not later than 7 days after the goods have arrived at the station or any other place to where the goods were carried by rail, subject to such other periods or exemptions as the Commissioner may allow.

Road
Manifests

- (e) (i) Import manifests for cargo originating in any country other than a BLNS country and carried by road through a designated land border post in the Republic must be submitted by the road haulier in respect of all the cargo carried on the vehicle.

Time within which manifest must be submitted

- (ii) Manifests for cargo imported by road must be submitted not later than the time that a customs declaration is presented at the border post for the goods carried on the vehicle.

8.08 Persons who are required to submit outturn reports and the time within which such reports must be submitted

Vessel
Outturn reports

- (a) Outturn reports in respect of cargo landed from a vessel must be submitted by-
- (i) the container terminal operator in respect of containerised cargo;

- (ii) the wharf operator in respect of break bulk cargo, bulk cargo and containerised cargo; and
 - (iii) the depot operator in respect of containerised cargo.
- (b) The container terminal operator, wharf operator and depot operator must submit the following outturn reports specified in the annexure-
- (i) in the case of the container terminal operator-
 - (aa) a discharge list of containers landed;
 - (bb) a load list of containerised cargo;
 - (cc) a gate in report of containers;
 - (dd) a gate out report of all containers;
 - (ii) in the case of the wharf operator-
 - (aa) a discharge list for containers landed from such vessel on to the wharf;
 - (bb) a load list for containers loaded on to any such vessel from the wharf;
 - (cc) a break bulk and bulk cargo outturn report and in respect of break bulk and bulk cargo specifying any shortlanded cargo;
 - (dd) a vessel outturn report of excess cargo;
 - (iii) in the case of the depot operator-
 - (aa) a depot cargo outturn report of goods unpacked from a container according to the manifest;
 - (bb) a vessel outturn report;

Time within which outturn reports must be submitted

- (c) The persons referred to in paragraphs (a) and (b) must, subject to such other periods or exemptions as the Commissioner may authorise, submit a-
- (i) discharge list for containers, during the discharge of a vessel at such intervals as may be agreed upon between the Commissioner and the container terminal operator, but not later than 24 hours after the vessel has been fully discharged at that port;
 - (ii) load list for containers not later than 24 hours after the vessel has been fully loaded;
 - (iii) gate-in report not later than one hour of receipt of the container in the container terminal;

- (iv) gate-out report not later than one hour after removal of the container from the container terminal;
- (v) depot cargo outturn report, not later than 24 hours after the container to which the report relates has been unpacked;
- (vi) vessel outturn report in respect of-
 - (aa) containerised cargo, not later than 3 days after the last container from that specific voyage has been unpacked in the depot;
 - (bb) break bulk or bulk cargo, not later than 7 days after the vessel has been discharged;
- (vii) break bulk or bulk cargo outturn report, not later than 7 days after the vessel has been discharged.

Aircraft

Outturn reports

- (d) Outturn reports in respect of cargo landed from an aircraft must be submitted by-
 - (i) the transit shed operator in respect of all cargo received into the transit shed;
 - (ii) the degrouping operator in respect of all cargo received and deconsolidated by such operator.

Time within which outturn reports must be submitted

- (e) The air cargo outturn report, not later than 24 hours after the arrival of the cargo at the transit shed or degrouping depot situated at the first airport of discharge;
- (f) The transit shed operator or the degrouping operator situated at the first place of discharge must submit an air cargo outturn report specified in the annexure in respect of all cargo received into the transit shed or degrouping depot.

8.09 Variation of reports

- (a) Any report submitted in terms of section 8 and these rules may-
 - (i) subject to such limitations or requirements the Commissioner may impose; and
 - (ii) provided, except if the Commissioner on good cause shown permits, the goods have not yet been discharged or entered for customs purposes or received into the State warehouse;

be amended in any manner prescribed in rule 8.05 by the person who submitted the report.

- (b) If a variation of a cargo report will result in a decrease in the quantity of any kind of goods previously covered by the report, the cargo reporter submitting the variation must furnish an explanation to the Controller of such decrease together with such variation.

8.10 Shortlanded, shortshipped, shortpacked or excess cargo

Any outturn report must, where relevant specify-

- (a) any containers that have been shortlanded or overlanded;
- (b) any goods which according to the manifest have been shortlanded, shortpacked, shortshipped or are in excess of manifested quantities;
- (c) unmanifested excess goods; or
- (d) that the goods have been fully accounted for according to the manifest.

8.11 Working days and hours of business for receiving reports

- (a) Schedule and arrival reports may be submitted-
 - (i) in respect of reports submitted electronically as provided in paragraph 15 of the user agreement prescribed in the rules for section 101A, every day and at all hours excluding such time as may be required for maintenance of the system;
 - (ii) in respect of paper reports made by document, by delivering it to the Controller at the port or airport at which the ship or aircraft is expected to arrive.
- (b) Manifests and outturn reports may be submitted-
 - (i) in respect of reports submitted electronically as provided in paragraph 15 of the user agreement prescribed in the rules for section 101A, every day and at all hours excluding such time as may be required for maintenance of the system;
 - (ii) in respect of reports made by document to the office of the Controller situated at the place to which the cargo has been manifested for final delivery to the consignee during the hours of attendance specified for the purposes of accepting bills of entry in item 201.00 of the Schedule to the Rules for that office.

8.12 Acknowledgement of receipt of cargo reports

- (a) In respect of report submitted electronically, acknowledgement of receipt is regulated by the provisions of section 101A (9), its rules, the user agreement and the user manual.
- (b) Acknowledgement of cargo reports submitted by paper document will only be issued during the hours of attendance specified for the purpose of accepting bills of entry in item 201.00 of the Schedule to the Rules and will be in a manner as determined by the Controller.

8.13 Keeping of books, accounts and documents

For the purposes of section 101, and notwithstanding anything to the contrary in any rule contained, every registered person must-

- (a) keep proper books, accounts and documents and any data created by means of a computer as required in terms of section 101(2B), in respect of all transactions relating to the activities contemplated in section 8 and these rules, for a period of five years calculated from the end of the calendar year any such document was created, lodged or required or was submitted electronically for the purposes of any customs and excise procedure;
- (b) include in such books, accounts and documents any requirement prescribed in any other provision of the Act in respect of the activity from which registration is required;
- (c) produce such books, accounts and documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with his or her transactions as the Commissioner may require.

8.14 Commissioner to be advised of any changed particulars

Whenever any of the particulars furnished in any application for registration changes in any material way, the registered person shall advise the Commissioner within seven days of the occurrence of such event by submitting a form DA 8 and the relevant annexure reflecting the changed particulars.

8.15 Effect of amendment of rules

Anything done in terms of any provision of the rules for section 8 before this amendment shall be deemed to have been done under the corresponding provision of these rules.”

Annexure

List of Cargo reports to be submitted and particulars to be furnished (Rule 8.05):

Notes:

1. A cargo reporter who submits any report listed in paragraph A must –
 - (a) subject to such exceptions as the Controller may allow, in the case of a paper report, furnish all particulars except those indicated by an asterisk; where the report is submitted electronically, furnish all particulars including those indicated by an asterisk but excluding Carrier Name, Master Cargo Carrier Name or Cargo Carrier Name.
 2. Where a -
 - (a) data element requires a particular code to be supplied, the value thereof shall be as reflected in the relevant MAS Code Table accessible to registered users on the MAS system or also on the SARS website;
 - (b) date is required, the format used shall be ccyyymmdd;
 - (c) time is required, the format used shall be hhmm;
 - (d) weight is required, it shall be stated in kilograms.
 3. All particulars are compulsory unless expressly stated to be optional.
-

Reports to be submitted:

1. Schedule Report
2. Arrival report
3. Manifest
4. Empty container list
5. Outturn reports –
 - .01 discharge list
 - .02 load list
 - .03 gate in
 - .04 gate out
 - .05 depot cargo outturn report
 - .06 vessel outturn report

- .07 break bulk or bulk cargo outturn report
- .08 air cargo outturn report

A. Reports to be submitted in respect of sea cargo

A.1. Vessel Schedule

- * A1.01 Document Type
- * A1.02 Document / Message Number
- * A1.03 Message Function
- * A1.04 Document / Message Date
- * A1.05 Message Sender
- A1.06 Carrier Code
- A1.07 Carrier Name
- A1.08 ID of Transport (coded)
- A1.09 Name of Transport
- A1.10 Conveyance Number
- A1.11 Transport Code
- A1.12 Place of Departure (Name)
- A1.13 UN/LOCODE (Port of Call)
- A1.14 Port of Call (Name)
- A1.15 Estimated Date of Arrival
- A1.16 Estimated Time of Arrival

A.2. Vessel Arrival Report

- * A2.01 Document Type
- * A2.02 Document / Message Number
- * A2.03 Message Function
- * A2.04 Document / Message Date
- * A2.05 Message Sender
- A2.06 Carrier Code
- A2.07 Carrier Name
- A2.08 ID of Transport (coded)
- A2.09 Name of Transport
- A2.10 Conveyance Number
- A2.11 Transport Code
- A2.12 UN/LOCODE (Port of Call)

- A2.13 Port of Call (Name)
- A2.14 Actual of Date of Arrival
- A2.15 Actual Time of Arrival
- A2.16 Conveyance Number

A.3. Manifest

- * A3.01 Document Type
- * A3.02 Document / Message Number
- * A3.03 Message Function
- * A3.04 Document / Message Date
- * A3.05 Document to be amended (if applicable)
- * A3.06 Message Sender
- A3.07 Carrier Code
- A3.08 Carrier Name
- A3.09 ID of Transport (coded)
- A3.10 Transport Name
- A3.11 Conveyance Number
- A3.12 Transport Code
- A3.13 Cargo Type Indicator (coded)
- A3.14 Original Port of Loading (if transshipped cargo - Coded)
- A3.15 Port of Loading (coded)
- A3.16 Estimated Date of Arrival
- A3.17 Port of Discharge (coded)
- A3.18 Final Destination (coded)
- A3.19 Master Cargo Carrier Code
- A3.20 Master Cargo Carrier Name
- A3.21 Master Transport Document Number
- A3.22 Cargo Carrier Code (Mandatory for the party that submits the
Transport Document)
- A3.23 Cargo Carrier Name
- A3.24 Transport Document Number
- A3.25 Consignor Name
- A3.26 Consignor Address
- A3.27 Consignee Name
- A3.28 Consignee Address
- A3.29 Container Number (if containerized cargo)

- A3.30 Container Size (if containerized cargo - coded)
- A3.31 Container Type (if containerized cargo - coded)
- A3.32 Service Type (if containerized cargo - coded)
- A3.33 Container Status (if containerized cargo- coded)
- A3.34 Gross Mass (KGM) (if containerized cargo)
- A3.35 Seal Number 1
- A3.36 Seal Number 2 (if applicable)
- A3.37 Seal Number 3 (if applicable)
- A3.38 Seal Number 4 (if applicable)
- A3.39 Sealing Party 1 (coded)
- A3.40 Sealing Party 2 (if applicable - coded)
- A3.41 Sealing Party 3 (if applicable - coded)
- A3.42 Sealing Party 4 (if applicable - coded)
- * A3.43 Number of Containers per Message
- A3.44 Goods Line Number
- A3.45 Marks & Numbers (if not bulk cargo)
- A3.46 Description of Goods
- A3.47 Number of Packages (if not bulk cargo)
- A3.48 Type of Package (if not bulk cargo - coded)
- A3.49 Gross Mass (KGM)
- A3.50 Dangerous Goods Code (if applicable)

A.4. Empty Container List

- * A4.01 Document Type
- * A4.02 Document / Message Number
- * A4.03 Message Function
- * A4.04 Document / Message Date
- * A4.05 Document to be amended (if applicable)
- * A4.06 Message Sender
- A4.07 Carrier Code
- A4.08 Transport ID (coded)
- A4.09 Transport Name
- A4.10 Conveyance Number
- A4.11 Transport Code
- A4.12 Port of Discharge (coded)
- A4.13 Estimated Date of Arrival

- A4.14 Master Cargo Carrier Code
- A4.15 Master Cargo Carrier Name
- A4.16 Container Number
- A4.17 Container Size (coded)
- A4.18 Container Type (coded)
- A4.19 Container Status (coded)
- A4.20 Service Type (coded)
- * A4.21 Number of Containers per Message

A.5. Outturn Reports -

A5.01 Discharge List

- * A5.01.01 Document Type
- * A5.01.02 Document / Message Number
- * A5.01.03 Message Function
- A5.01.04 Carrier Code
- A5.01.05 ID of Transport (coded)
- A5.01.06 Transport Name
- A5.01.07 Conveyance Number
- A5.01.08 Transport Code
- A5.01.09 Port of Discharge (coded)
- A5.01.10 Arrival Date
- A5.01.11 Arrival Time
- A5.01.12 Terminal of Discharge (coded)
- A5.01.13 Master Cargo Carrier Code
- A5.01.14 Master Cargo Carrier Name
- A5.01.15 Container Number
- A5.01.16 Date Discharged
- A5.01.17 Time Discharged
- A5.01.18 Landed Purpose (coded)
- A5.01.19 Service Type (coded)
- A5.01.20 Container Size (coded)
- A5.01.21 Container Type (coded)
- A5.01.22 Seal Number 1
- A5.01.23 Seal Number 2 (if applicable)
- A5.01.24 Terminal of Discharge (coded)
- A5.01.25 Master Cargo Carrier Code

- A5.01.26 Master Cargo Carrier Name
- A5.01.27 Container Number
- A5.01.28 Date Discharged
- A5.01.29 Time Discharged
- A5.01.30 Landed Purpose (coded)
- A5.01.31 Service Type (coded)
- A5.01.32 Container Size (coded)
- A5.01.33 Container Type (coded)
- A5.01.34 Seal Number 1
- A5.01.35 Seal Number 2 (if applicable)
- A5.01.36 Seal Number 3 (if applicable)
- A5.01.37 Seal Number 4 (if applicable)
- A5.01.38 Sealing Party 1 (coded)
- A5.01.39 Sealing Party 2 (if applicable - coded)
- A5.01.40 Sealing Party 3 (if applicable - coded)
- A5.01.41 Sealing Party 4 (if applicable - coded)
- * A5.01.42 Number of Containers
- A5.01.43 On Transport Code (if Transshipment cargo)
- A5.01.44 On Carrier Code (if Transshipment cargo)
- A5.01.45 On Transport ID (if Transshipment cargo - coded)
- A5.01.46 On Conveyance Number (if Transshipment cargo)
- A5.01.47 On Master Cargo Carrier Code (if Transshipment cargo)

A5.02 Load List

- * A5.02.01 Document Type
- * A5.02.02 Document / Message Number
- * A5.02.03 Message Function
- A5.02.04 Carrier Code
- A5.02.05 ID of Transport (coded)
- A5.02.06 Transport Name
- A5.02.07 Conveyance Number
- A5.02.08 Transport Code
- A5.02.09 Port of Load (coded)
- A5.02.10 Terminal of Load (coded)
- A5.02.11 Arrival Date (optional)
- A5.02.12 Departure Date

- A5.02.13 Departure Time
- A5.02.14 Master Cargo Carrier Code
- A5.02.15 Master Cargo Carrier Name
- A5.02.16 Container Number
- A5.02.17 Booking Reference Number
- A5.02.18 Date Loaded
- A5.02.19 Time Loaded
- A5.02.20 Landed Purpose (coded)
- A5.02.21 Service Type (coded)
- A5.02.22 Container Size (coded)
- A5.02.23 Container Type (coded)
- A5.02.24 Seal Number 1
- A5.02.25 Seal Number 2 (if applicable)
- A5.02.26 Seal Number 3 (if applicable)
- A5.02.27 Seal Number 4 (if applicable)
- A5.02.28 Sealing Party 1 (coded)
- A5.02.29 Sealing Party 2 (if applicable - coded)
- A5.02.30 Sealing Party 3 (if applicable - coded)
- A5.02.31 Sealing Party 4 (if applicable - coded)
- * A5.02.32 Number of Containers
- A5.02.33 Pre Transport Code (if transshipment cargo)
- A5.02.34 Pre Carrier Code (if transshipment cargo)
- A5.02.35 Pre Transport ID (if transshipment cargo - coded)
- A5.02.36 Pre Conveyance Number (if transshipment cargo)
- A5.02.37 Pre Master Cargo Carrier Code (if transshipment cargo)

A5.03 Gate In

- * A5.03.01 Document Type
- * A5.03.02 Document / Message Number
- * A5.03.03 Message Function
- * A5.03.04 Document to be amended (if applicable)
- A5.03.05 Carrier Code
- A5.03.06 ID of Transport (coded)
- A5.03.07 Transport Name
- A5.03.08 Conveyance Number
- A5.03.09 Transport Code

- A5.03.10 Port of Load (coded)
- A5.03.11 Terminal of Load (coded)
- A5.03.12 Departure Date
- A5.03.13 Departure Time
- A5.03.14 Master Cargo Carrier Code
- A5.03.15 Master Cargo Carrier Name
- A5.03.16 Container Number
- A5.03.17 Booking Reference Number
- A5.03.18 Gate In Date
- A5.03.19 Gate In Time
- A5.03.20 Landed Purpose (coded)
- A5.03.21 Service Type (coded)
- A5.03.22 Seal Number 1
- A5.03.23 Seal Number 2 (if applicable)
- A5.03.24 Seal Number 3 (if applicable)
- A5.03.25 Seal Number 4 (if applicable)
- A5.03.26 Sealing Party 1 (coded)
- A5.03.27 Sealing Party 2 (if applicable - coded)
- A5.03.28 Sealing Party 3 (if applicable - coded)
- A5.03.29 Sealing Party 4 (if applicable - coded)
- * A5.03.30 Number of Containers
- A5.03.31 Pre Transport Code (if transshipment cargo)
- A5.03.32 Pre Carrier Code (if transshipment cargo)
- A5.03.33 Pre Transport ID (if transshipment cargo - coded)
- A5.03.34 Pre Conveyance Number (if transshipment cargo)
- A5.03.35 Pre Master Cargo Carrier Code (if transshipment cargo)

A5.04 Gate Out

- * A5.04.01 Document Type
- * A5.04.02 Document / Message Number
- * A5.04.03 Message Function
- * A5.04.04 Document to be amended (if applicable)
- A5.04.05 Carrier Code
- A5.04.06 ID of Transport (coded)
- A5.04.07 Transport Name
- A5.04.08 Conveyance Number

- A5.04.09 Transport Code
- A5.04.10 Port of Discharge (coded)
- A5.04.11 Terminal of Discharge (coded)
- A5.04.12 Arrival Date
- A5.04.13 Arrival Time
- A5.04.14 Master Cargo Carrier Code
- A5.04.15 Master Cargo Carrier Name
- A5.04.16 Container Number
- A5.04.17 Gate Out Date
- A5.04.18 Gate Out Time
- A5.04.19 Landed Purpose (coded)
- A5.04.20 Service Type (coded)
- A5.04.21 Seal Number 1
- A5.04.22 Seal Number 2 (if applicable)
- A5.04.23 Seal Number 3 (if applicable)
- A5.04.24 Seal Number 4 (if applicable)
- A5.04.25 Sealing Party 1 (coded)
- A5.04.26 Sealing Party 2 (if applicable - coded)
- A5.04.27 Sealing Party 3 (if applicable - coded)
- A5.04.28 Sealing Party 4 (if applicable - coded)
- * A5.04.29 Number of Containers
- A5.04.30 On Transport Code (if transshipment cargo)
- A5.04.31 On Carrier Code (if transshipment cargo)
- A5.04.32 On Transport ID (if transshipment cargo - coded)
- A5.04.33 On Conveyance Number (if transshipment cargo)
- A5.04.34 On Master Cargo Carrier Code (if transshipment cargo)

A5.05 *Depot Cargo Outturn Report*

- * A5.05.01 Document Type
- * A5.05.02 Document / Message Number
- * A5.05.03 Message Function
- * A5.05.04 Document to be amended (if applicable)
- A5.05.05 Outturn Provider Code
- A5.05.06 Carrier Code
- A5.05.07 Carrier Name
- A5.05.08 Transport ID (coded)

A5.05.09	Transport Name
A5.05.10	Conveyance Number
A5.05.11	Transport Code
A5.05.12	Port of Discharge (coded)
A5.05.13	Actual Arrival Date
A5.05.14	Master Cargo Carrier Code
A5.05.15	Master Cargo Carrier Name
A5.05.16	Master Transport Document Number
A5.05.17	Cargo Carrier Code
A5.05.18	Cargo Carrier Name
A5.05.19	Transport Document Number
A5.05.20	Goods Line Number
A5.05.21	Marks & Numbers
A5.05.22	Number of Packages
A5.05.23	Type of Packages (coded)
A5.05.24	Number of Packages Found
A5.05.25	Gross Mass (KGM)
A5.05.26	Gross Mass Found (KGM)
A5.05.27	Container Number
A5.05.28	Service Type (coded)
A5.05.29	Container Size (coded)
A5.05.30	Container Type (coded)
A5.05.31	Landed Purpose (coded)
A5.05.32	Date Unpacked
A5.05.33	Time Unpacked
A5.05.34	Seal Number 1
A5.05.35	Seal Number 2 (if applicable)
A5.05.36	Seal Number 3 (if applicable)
A5.05.37	Seal Number 4 (if applicable)
A5.05.38	Sealing Party 1 (coded)
A5.05.39	Sealing Party 2 (if applicable - coded)
A5.05.40	Sealing Party 3 (if applicable - coded)
A5.05.41	Sealing Party 4 (if applicable - coded)
* A5.05.42	Number of Containers / Packages
* A5.05.43	Container Number per Consignment
A5.05.44	Marks & Numbers

A5.05.45 Number of Packages

A5.06 Vessel Outturn Report

- * A5.06.01 Document Type
- * A5.06.02 Document / Message Number
- * A5.06.03 Message Function
- * A5.06.04 Document to be amended (if applicable)
- A5.06.05 Outturn Provider Code
- A5.06.06 Carrier Code
- A5.06.07 Carrier Name
- A5.06.08 Transport ID (coded)
- A5.06.09 Transport Name
- A5.06.10 Conveyance Number
- A5.06.11 Transport Code
- A5.06.12 Port of Discharge (coded)
- A5.06.13 Actual Arrival Date
- A5.06.14 Goods Line Number
- A5.06.15 Type of Packages (coded)
- A5.06.16 Number of Packages Found
- A5.06.17 Marks & Numbers (if not bulk)
- A5.06.18 Container Number (if containerized cargo)
- * A5.06.19 Number of Containers / Packages
- * A5.06.20 Container Number per Consignment

A5.07 Bulk or Break Bulk Outturn Report

- * A5.07.01 Document Type
- * A5.07.02 Document / Message Number
- * A5.07.03 Message Function
- * A5.07.04 Document to be amended (if applicable)
- A5.07.05 Outturn Provider Code
- A5.07.06 Carrier Code
- A5.07.07 Carrier Name
- A5.07.08 Transport ID (coded)
- A5.07.09 Transport Name
- A5.07.10 Conveyance Number
- A5.07.11 Transport Code

- A5.07.12 Port of Discharge (coded)
- A5.07.13 Actual Date of Arrival
- A5.07.14 Berth of Discharge (coded)
- A5.07.15 Master Cargo Carrier Code
- A5.07.16 Master Cargo Carrier Name
- A5.07.17 Master Transport Document Number
- A5.07.18 Cargo Carrier Code
- A5.07.19 Cargo Carrier Name
- A5.07.20 Transport Document Number
- A5.07.21 Cargo Type Indicator (coded)
- A5.07.22 Goods Line Number
- A5.07.23 Marks & Numbers (if not bulk)
- A5.07.24 Number of Packages
- A5.07.25 Type of Packages
- A5.07.26 Number of Packages Found
- A5.07.27 Gross Mass (KGM)
- A5.07.28 Gross Mass Found (KGM)
- A5.07.29 Over Carried Excess: Y/N
- A5.07.30 Over Carried Short: Y/N
- * A5.07.31 Number of Containers / Packages
- * A5.07.32 Container Number per Consignment

B. Particulars to be furnished in respect of air cargo:

B1. Schedule

- * B1.01 Document Type
- * B1.02 Document / Message Number
- * B1.03 Message Function
- * B1.04 Document / Message Date
- * B1.05 Message Sender
- B1.06 Conveyance Number
- B1.07 Transport Code
- B1.08 Carrier Code
- B1.09 ID of Means of Transport
- B1.10 Place of Departure
- B1.11 Place of Call

- B1.12 Date / Time of Departure
- B1.13 Estimated Date / Time of Arrival

B2. *Arrival Report*

- * B2.01 Document Type
- * B2.02 Document / Message Number
- * B2.03 Message Function
- * B2.04 Document / Message Date
- * B2.05 Message Sender
- B2.06 Conveyance Number
- B2.07 Transport Code
- B2.08 Carrier Code
- B2.09 ID of Means of Transport
- B2.10 Place of Discharge
- B2.11 Actual Arrival Date / Time

B3. *Pre – Arrival Manifest*

- * B3.01 Document Type
- * B3.02 Document / Message Number
- * B3.03 Message Function
- * B3.04 Document / Message Date
- * B3.05 Document to be amended (if applicable)
- * B3.06 Message Sender
- B3.07 Transport Code
- B3.08 Flight Number
- B3.09 Flight Date
- B3.10 Airport of Departure
- B3.11 Airport of Destination
- B3.12 Estimated Date / Time of Arrival
- B3.13 Carrier Code
- B3.14 Carrier Name
- B3.15 Master Cargo Carrier Code
- B3.16 Master Cargo Carrier Name
- B3.17 Master Transport Document Number
- B3.18 Number of Packages
- B3.19 Gross Mass (KGM)

B3.20 Description

B4. Final Manifest

- * B4.01 Document Type
- * B4.02 Document / Message Number
- * B4.03 Message Function
- * B4.04 Document / Message Date
- * B4.05 Document to be amended (if applicable)
- * B4.06 Message Sender
- B4.07 Transport Code
- B4.08 Manifest Type
- B4.09 Flight Number
- B4.10 Flight Date
- B4.11 Airport of Departure
- B4.12 Airport of Destination
- B4.13 Airport of Discharge
- B4.14 Estimated Date / Time of Arrival
- B4.15 Carrier Code
- B4.16 Carrier Name
- B4.17 Master Cargo Carrier Code
- B4.18 Master Cargo Carrier Name
- B4.19 Master Transport Document Number
- B4.20 Cargo Carrier Code (Mandatory for the party that submits the
Transport Document)
- B4.21 Cargo Carrier Name
- B4.22 Transport Document Number
- B4.23 Consignor Name
- B4.24 Consignor Address
- B4.25 Consignee Name
- B4.26 Consignee Address
- B4.27 Goods Line Number
- B4.28 Description of Goods
- B4.29 Number of Packages
- B4.30 Gross Mass (KGM)

B5. Air Cargo Outturn Report

- * B5.01 Document Type
- * B5.02 Document / Message Number
- * B5.03 Message Function
- * B5.04 Document / Message Date
- * B5.05 Document to be amended (if applicable)
- B5.06 Transport Code
- B5.07 Outturn Provider Code / Message Sender
- B5.08 Flight Number
- B5.09 Arrival Date
- B5.10 Arrival Time
- B5.11 Carrier Code
- B5.12 Carrier Name
- B5.13 Date / Time Unpacked
- B5.14 Master Cargo Carrier Code
- B5.15 Master Cargo Carrier Name
- B5.16 Master Transport Document Number
- B5.17 Cargo Carrier Code
- B5.18 Cargo Carrier Name
- B5.19 Transport Document Number
- B5.20 Goods Line Number
- B5.21 Number of Packages
- B5.22 Number of Packages Found
- B5.23 Type of Packages
- B5.24 Gross Mass
- B5.25 Gross Mass Found
- * B5.26 Number of Containers/Packages

C. Particulars to be furnished in respect of rail cargo:

C1. Manifest

- * C1.01 Document Type
- * C1.02 Document / Message Number
- * C1.03 Message Function
- * C1.04 Document / Message Date
- * C1.05 Document to be amended (if applicable)
- * C1.06 Message Sender

- C1.07 Transport Code
- C1.08 Cargo Type Indicator (coded)
- C1.09 Carrier Code
- C1.10 Carrier Name
- C1.11 Country Of Export
- C1.12 Country of Destination
- C1.13 Border Post
- C1.14 Estimated Date / Time of Arrival
- C1.15 Forwarding Location
- C1.16 Destination Location
- C1.17 Manifest Type
- C1.18 Master Transport Document Number
- C1.19 Master Transport Document Date
- C1.20 Consignor Name
- C1.21 Consignor Address
- C1.22 Consignee Name
- C1.23 Consignee Address
- C1.24 Container Number (in respect of containerised cargo)
- C1.25 Wagon Number (in respect of break bulk & bulk cargo)
- C1.26 Service Type (in respect of containerised cargo)
- C1.27 Gross Mass (in respect of containerised cargo)
- * C1.28 Number of Containers / Message
- C1.29 Goods Line Number
- C1.30 Number of Packages
- C1.31 Type of Packages
- C1.32 Description
- * C1.33 Unit of Measure
- C1.34 Gross Mass (KGM)
- * C1.35 Container Number / Wagon Number

D. Particulars to be furnished in respect of road cargo:

D.1. Manifest

- * D1.01 Document Type
- * D1.02 Document / Message Number
- * D1.03 Message Function

- * D1.04 Document / Message Date
- * D1.05 Document to be amended (if applicable)
- * D1.06 Message Sender
- D1.07 Transport Code
- D1.08 Manifest Type
- D1.09 Carrier Code
- D1.10 Carrier Name
- D1.11 Place of Loading
- D1.12 Final Destination
- D1.13 Border Post
- D1.14 Master Transport Document Number
- D1.15 Transport Document Number
- D1.16 Truck Registration Number
- D1.17 Trailer (1) Registration Number (if applicable)
- D1.18 Trailer (2) Registration Number (if applicable)
- D1.19 Container Number (in respect of containerised goods)
- D1.20 Seal number (in respect of containerised goods)
- D1.21 Waybill Line Number
- D1.22 Consignor Name
- D1.23 Consignee Name
- D1.24 Description
- D1.25 Mark and Numbers (If Break bulk)
- D1.26 Number of Packages
- D1.27 Type of Packages
- * D1.28 Unit of Measure
- D1.29 Gross Mass (KGM)

RULES FOR SECTION 9 OF THE ACT

Sealing of goods on board ship or aircraft

- 9.01 The declaration required in terms of section 9(1) shall be made on form DA 5 and shall be handed to the Controller on demand.

9.02 The master and every member of the crew shall each be allowed to retain for his own consumption for a period of four days such sealable goods and such quantities as are enumerated hereunder-

01. Cigarettes	200
or	
Tobacco in any other form	230 grams
02. Potable spirits in any form	1 litre
03. Wine	3 litres
04. Beer or stout	4 litres

9.03 In case where the master and crew remain on board for more than four days at any place, the Controller may, at the request of any master or member of the crew, after a period of four days or each multiple thereof, permit the issue of further quantities equivalent to the quantities enumerated in rule 9.02.

9.04 The following goods are declared to be sealable goods:

- (a) fire-arms (which include all air, alarm or gas pistols, revolvers and rifles) and ammunition;
- (b) tobacco, cigars, cigarettes and any other preparations of tobacco or substitutes therefore;
- (c) any spirits or alcoholic beverages;
- (d) habit-forming drugs;
- (e) articles brought or intended as gifts for or for sale to or exchange with any person; and
- (f) all non-duty-paid imported goods and all excisable goods and fuel levy goods shipped at a place in the Republic as ships' stores.

9.05 Naval ships and all aircraft are exempted from the provisions of section 9(1).

Breaking of seals on ships' stores

9.06 The master of a ship shall not permit any customs and excise seal on any goods in terms of section 9 to be broken while the ship is within the limits of the port, unless prior permission has been obtained from the Controller.

RULES FOR SECTION 11 OF THE ACT

Landing of goods from ships or aircraft

11.01 Goods, which have not been duly entered, shall not be removed from one transit shed to another without the written permission of the Controller.

11.02 Any person landing and delivering imported goods at any place shall, within a period of 14 days from the date on which such landing commences, or within such further period as the Controller may allow, furnish to the Controller a written statement with particulars of the goods reported for landing at that place in terms of section 7 but not landed at that place, and of the goods landed at that place but not so reported.

Special provisions in respect of fish landed from a foreign fishing vessel

11.03 (a) Fish landed from a foreign fishing vessel for the purposes contemplated in the rules for section 21(3) must, if the Controller so permits, be delivered by the master or the master's agent appointed as contemplated in section 97 to a special export storage warehouse as provided for in those rules.

(b) (i) When delivering the fish, the master or master's agent must declare on two copies of form DA 1A that all fish landed have been delivered to the special export storage warehouse and furnish both copies to the licensee of that warehouse.

(ii) The licensee of the special export storage warehouse must acknowledge receipt of the fish on those copies –

(aa) return one copy to the master or master's agent, and

(bb) retain one copy which must be submitted to the Controller together with the account (DA 1B) contemplated in rule 21.03.09(b)(ii)(bb).

(c) Fish so delivered shall, from the time of delivery, be subject to the provisions of section 21(3) and its rules.

RULES FOR SECTION 12 OF THE ACT

Importation of goods from or through Mozambique

12.01 Goods imported by road from or through Mozambique must be duly entered for South African Customs purposes at the office of the Controller of Customs and Excise, Lebombo, or other appointed place of entry in the Kingdom of Swaziland. Where such goods are imported by train due entry may be made at Lebombo or before the nearest

Controller of Customs and Excise at the destination of the goods in South Africa prior to delivery of such goods to the consignee.

NOTE: Due to the closure of the Office of the Controller of Customs and Excise, Maputo with effect from 1 April 1996, the Rule is amended accordingly.

Importation of goods by rail

12.02 For the purposes of section 12(1) the documents required to be furnished in respect of goods arriving in the Republic by train shall be –

- (a) advice and delivery notes or consignment notes, as the case may be, relating to such goods; and
- (b) a manifest of all the goods on such train specifying the -
 - (i) places of loading and discharge;
 - (ii) train or truck number;
 - (iii) number of any container as defined in section 1(2);
 - (iv) marks and numbers of any packages;
 - (v) number and description of any packages;
 - (vi) description and mass of the goods;
 - (vii) name and address of the consignee; and
 - (viii) name of the consignor.

RULES FOR SECTION 13 OF THE ACT

Goods imported or exported by post

13.01 For the purposes of section 13(3) the following goods shall be exempted from entry at a customs and excise office before a Controller:

- (a) Used personal effects provided for under item 407.01;
- (b) Unsolicited gifts provided for under item 412.10; or
- (c) Any goods exported by post for processing or repair and registered for exportation and are re-imported in terms of item 409.04.

13.02 For the purposes of section 13(4) any goods in respect of which the exporter intends to apply for a drawback or a refund of duty in terms of the provisions of any item of Schedule No. 5 or 6 shall be entered for export on the prescribed form at the office of the Controller.

13.03 For the purposes of application of, the reduced rates of duty in the EU column of Part 1 of Schedule No. 1, any provision of Part A of the Schedule to the General Notes to Schedule No. 1 and the rules numbered 49A, to goods imported or exported by post, as the case may be, the following procedures shall apply:

- (a) In the case of exemptions the necessary declarations may be made on the customs declaration of any parcel or on a sheet of paper attached to that document as provided in Article 24 of the protocol referred to in rule 49A.22(24).
- (b)
 - (i) If goods are imported and payment of any preferential rate of duty in the EU column of Part 1 of Schedule No 1 is claimed, but form EUR 1 or an invoice declaration is not produced, the postmaster shall detain the goods concerned and deliver them together with any documents produced to the Officer: Origin Administration at the office of the nearest Controller;
 - (ii) such goods shall be stored in the State warehouse and for the purposes of clearance be entered for customs duty purposes at the office of the said Controller.
- (c) If proof of origin documents are completed in respect of goods exported by post, the documents concerned must be delivered to the nearest Controller and the provisions of the rules numbered 49A shall *mutatis mutandis* apply to such goods.
- (d) The postmaster shall retain and forward to the Officer: Origin Administration any form EUR1 or invoice declaration in respect of imported goods.

13.04 For the purposes of application of the reduced rates of duty in the SADC column of Part 1 of Schedule No. 1, any provision of Part B of the Schedule to the General Notes to Schedule No. 1 and the rules numbered 49B, to goods imported or exported by post, as the case may be, the following procedures shall apply:

- (a) In the case of exemptions referred to in rule 49B.10(9)8 the necessary declarations may be made on the customs declaration of any parcel or on a sheet of paper attached to that document.
- (b)
 - (i) If goods are imported and payment of any preferential rate of duty in the SADC column of Part 1 of Schedule No. 1 is claimed, but the SADC Certificate of Origin is not produced, the Postmaster shall detain the goods concerned and deliver them together with any documents produced to the Officer: Origin Administration at the office of the nearest Controller;

- (ii) such goods shall be stored in the State warehouse and for the purposes of clearance be entered for customs duty purposes at the office of the said Controller;
- (c) If proof of origin documents are completed in respect of goods exported by post, the documents concerned must be delivered to the nearest Controller and the provisions of the rules numbered 49B shall *mutatis mutandis* apply to such goods;
- (d) the Postmaster shall retain and forward to the Officer: Origin Administration at the nearest Controller's office, any SADC Certificate of Origin in respect of imported goods;
- (e) these procedures shall apply *mutatis mutandis* to goods imported under the provisions of item 460.11 of Schedule No. 4.

13.05 Any textile and apparel articles exported by post for the purposes of obtaining preferential tariff treatment on importation into the United States of America as contemplated in the African Growth and Opportunity Act referred to in Part 1 of the rules for section 46A, shall be entered for export at the office of the Controller nearest to the post office where they are posted and shall be subject to the provisions of the rules of the said Part 1 of the rules for section 46A.

13.06 For the purposes of application of the reduced rates of duty in the EFTA column of Part 1 of Schedule No. 1, any provision of Part C of the Schedule to the General Notes to Schedule No. 1 and the rules numbered 49D, to goods imported or exported by post, as the case may be, the following procedures shall apply:

- (a) In the case of exemptions the necessary declarations may be made on the customs declaration of any parcel or on a sheet of paper attached to that document as provided in Article 20 of Annex V referred to in rule 49D.19(20).
- (b) (i) If goods are imported and payment of any preferential rate of duty in the EFTA column of Part 1 of Schedule No. 1 is claimed, but Movement Certificate EUR1 or an invoice declaration is not produced, the postmaster shall detain the goods concerned and deliver them together with any documents produced to the officer responsible for origin administration at the office of the nearest Controller;
- (ii) such goods shall be stored in the State warehouse and for the purposes of clearance be entered or declared for customs duty purposes at the office of the said Controller.

- (c) If proof of origin documents are completed in respect of goods exported by post, the documents concerned must be delivered to the nearest Controller and the provisions of the rules numbered 49D shall *mutatis mutandis* apply to such goods.
- (d) The postmaster shall retain and forward to the Officer responsible for origin administration any Movement Certificate EUR1 or invoice declaration in respect of imported goods.

RULES FOR SECTION 14 OF THE ACT

Coastwise traffic and coasting ships

- 14.01 (a) The master shall report on form DA 6 to the Controller at the port of discharge any goods carried coastwise which have not been duly entered for home consumption.
- (b) Such report shall include, *inter alia*, goods removed in bond in terms of section 18(1)(d) or from a customs and excise warehouse on forms DA 32, SAD 500 and supporting SAD forms as may be applicable to the movement procedure.
- 14.02 The provisions of rules 7.01(d) and 7.05 shall apply in respect of coasting ships but the Controller may authorise the issue of transires to coasting ships in such circumstances as he considers necessary. Any transire issued in terms of this rule shall be subject to the provisions of rules 7.09 to 7.12.

RULES FOR SECTION 15 OF THE ACT

Persons entering or leaving the Republic and their baggage

- 15.01(a)(i) For the purposes of this rule and forms, TC-01 (Traveller Card) and TRD1 (Traveller Declaration)
- “commercial goods”** means goods in the accompanied or unaccompanied baggage of a traveller that are imported into or exported from the Republic for trade or other business purposes, and –
- (a) includes –
 - (i) goods intended –

- (aa) to be sold, leased or otherwise commercially transacted; or
 - (bb) for use in a business or profession; and
 - (ii) goods which by reason of their nature, quantity, volume or other attribute can reasonably be regarded as goods intended for trade or other business purposes;”
- (b) excludes goods that must be declared on form TRD1;

“declare” in relation to the declaration on form TRD1 means that the traveller must make an oral declaration of the goods required to be declared to a passenger assessment officer for electronic preparation of form TRD1 according to the particulars furnished in the oral declaration and the traveller must then sign the TRD1 if he or she agrees with the contents;

“goods” in relation to goods required to be declared on forms TC-01 and TRD1 means goods contemplated in section 15(1) carried by a traveller on his or her person or included in his or her accompanied baggage;

“personal effects” means, subject to item 407.01 of Schedule No. 4, goods (new or used) in the accompanied or unaccompanied baggage of a traveller which that traveller has on or with him or her or takes along or had taken along for, and reasonably required for, personal or own use, such as any wearing apparel, toilet articles, medicine, personal jewellery, watch, cellular phone, automatic data processing machines, baby carriages and strollers, wheelchairs for persons living with disability, sporting equipment, food and drinks and other goods evidently on or with that person for personal or own use, but excludes goods that must be declared on forms TC-01 and TRD1 and commercial goods;

“traveller” means any person who enters or leaves the Republic as contemplated in section 15(1)(a);

“vehicle” means any road vehicle whether for private or commercial use temporarily brought into or taken from the Republic that must be declared by a traveller on form TRD1;”;

- (ii) A traveller may only use form TC-01 or forms TC-01 and TRD1, for declaring goods or vehicles required to be declared on these forms at the following places and from the date specified for each place:

Place	Date from
Ramathlabama	30 May 2012
Nerston	9 June 2012
Mahamba	16 June 2012
Mananga	30 June 2012
Jeppe's Reef	7 July 2012
Nakop	21 July 2012
Vioolsdrift	21 July 2012
Grobler's Bridge	10 November 2012
Kopfontein	10 November 2012
Oshoek	10 November 2012
Skilpadshek	10 November 2012
Caledonspoort	10 November 2012
Golela	10 November 2012
Qacha's Nek	10 November 2012
Van Rooyen's hek	10 November 2012
Ficksburg	15 November 2012
Maseru Bridge	15 November 2012

- (iii) A traveller completing forms TC-01 or TRD1 shall comply with the directives for obtaining, completing and submitting these forms as outlined in the Traveller Processing Policy – External and the Standard Operating Procedures: Traveller Assessment and Goods registration for re-importation and re-exportation – External and the Completion Manual for Traveller Declarations electronically available from the SARS website or at any SARS branch office.

(b)(i) A traveller entering the Republic–

- (aa) where no red and green channels are provided for at the place where he or she enters the Republic for processing travellers, may without declaring any goods on forms TC-01 and TRD1 exit the restricted area at that place if the goods upon his or her person or in his or her possession –

- (A) are personal effects;
- (B) if any other goods, are goods not exceeding the quantities or values of goods that may be imported without payment of duty or value-added tax, as specified under the heading “Allowances” on form TC-01; and
- (C) are not goods prohibited or restricted under any law of the Republic; or goods for commercial purposes;

(bb) shall–

- (A) declare on forms TC-01 and TRD1 any goods on his person or in his possession or any vehicle that is required to be declared on those forms before leaving the restricted area at the place where he or she enters the Republic;
- (B) comply with any requirement specified in such form or the notes thereto in respect of the goods or vehicle concerned and the directives referred to in paragraph (a)(ii); and
- (C) if commercial goods, clear the goods as contemplated in rule 15.02.

- (ii) A traveller leaving the Republic—
 - (aa) may without declaring any goods on forms TC-01 and TRD1 exit the restricted area at the place where he or she leaves the Republic if the goods upon his or her person or in his or her possession are personal effects;
 - (bb) shall—
 - (A) declare on forms TC-01 and TRD1 any goods on his person or in his possession that are required to be declared on those forms before leaving the restricted area at the place where he or she leaves the Republic;
 - (B) if commercial goods, clear the goods as contemplated in rule 15.02.
 - (iii) For the purposes of declaring goods in terms of section 15(1), a traveller leaving the restricted area at the place where he or she enters or leaves the Republic without declaring any goods on forms TC-01 and TRD1 must be regarded as declaring that he or she has no goods upon his or her person or in his or her accompanied baggage other than personal effects.”;
 - (iv) Any goods or any vehicle temporarily imported or exported must be so declared whether temporarily imported from or temporarily exported directly to any country outside the common customs area or temporarily imported from or temporarily exported to or through the territory of any other country in the common customs area.”
- (c)
- (i)(aa) Any traveller who has any goods for commercial purposes on his or her person or in his or her accompanied baggage on entering or leaving the Republic must complete the statement in respect thereof on form TC-01.”;
 - (bb) Such goods may only be removed from customs control after due entry as contemplated in rule 15.02 and release is authorised.
- (ii) The Controller may allow such goods to be stored or kept pending the release thereof at the request of the traveller concerned and for reasons deemed valid by the Controller, subject to such conditions as he or she may impose.

- (d) (i) Where red and green channels are provided at any place for processing travellers, a traveller on entering the Republic may choose the green channel to exit the restricted area at that place if the goods upon his or her person or in his or her possession—
 - (aa) are personal effects; and
 - (bb) if any other goods, are goods not exceeding the quantities or values of goods that may be imported without payment of duty or value-added tax, as specified under the heading “Allowances” on form TC-01; and”;
 - (cc) are not—
 - (A) goods prohibited or restricted under any law of the Republic; or
 - (B) goods for commercial purposes.
- (ii) For the purposes of declaring goods in terms of section 15(1), a traveller entering the green channel must be regarded as declaring that he or she has no goods upon his or her person or in his or her accompanied baggage other than the goods contemplated in subparagraph (i).
- (iii) If a traveller has any goods upon his or her person or in his or her accompanied baggage that are—
 - (aa) personal effects not complying with, or any goods in excess of, those goods contemplated respectively in subparagraph (i)(aa) and (bb), or
 - (bb) any goods referred to in subparagraph (i)(cc),
 the traveller must enter the red channel.”

15.02 Except goods that may be declared as provided for under item 410.04 of Schedule No. 4, any goods brought into or taken from the Republic for commercial purposes, whether or not for own use, shall be entered in terms of the provisions of section 38.

15.03 Subject to these rules, no person—

- (a) entering or leaving the Republic shall remove his or her baggage, or any other goods accompanying him or her, from customs and excise control, or cause such baggage or goods to be so removed unless so authorized by the Controller; and
- (b) shall deliver any such baggage or goods left with him or her or handed to him or her for delivery unless release has been granted.

RULES FOR SECTION 17 OF THE ACT

Rent to be paid on goods in a State warehouse

- 17.01 (a) (i) These rules apply to goods taken to and secured in a State warehouse or goods removed to or allowed to remain in any place deemed to be a State warehouse as contemplated in section 43(2).
- (ii) In these rules and any form to which the rules relate, any meaning ascribed to any word or expression in the Act, shall bear the meaning so ascribed and, unless the context otherwise indicates -
- “**carrier**” shall have the meaning assigned thereto in the rules for section 8;
- “**cleared goods**” means goods which have been entered or declared in terms of applicable customs and excise laws and procedures relating to those goods, whether or not they have been validly so entered or declared;
- “**customs and excise laws and procedures**” shall have the meaning assigned thereto in rule 59A.01(a);
- “**delivery order**” means any document issued by a carrier authorizing delivery of goods to the person named therein;
- “**freight ton**” means the greater of either the mass or measurement of goods where one freight ton is equal to a metric ton (1 000 kg) or one cubic metre;
- “**rate**” means the rate specified in rule 17.02 for the calculation of rent;
- “**rent**” means the amount charged in respect of the period goods remain in a State warehouse as contemplated in section 17;
- “**rent-free period**” means a period contemplated in rule 17.04;
- “**sold in terms of section 43(3)**” referred to in rule 17.02 includes goods to which sections 41(2) and 107(1)(b) relate;
- “**the Act**” means “**this Act**” as defined in section 1 of the Customs and Excise Act, 1964 (Act 91 of 1964);
- “**traveller**” means -

(aa) any person who does not normally reside in the Republic and who temporarily enters or who leaves the Republic; or

(bb) any person who normally resides in the Republic and who leaves or returns to the Republic;

“uncleared goods” includes goods that must be entered or declared in terms of customs and excise laws and procedures and have not been so entered or declared or in the case of goods to which section 114 relate, any goods that are detained in terms of that section and are not required to be so entered or declared.

(iii) For the purposes of the definition of “freight ton” any fraction of a metric ton or a cubic metre must be regarded as a whole metric ton or cubic metre, as the case may be.

(iv) (aa) Any number of days for which rent is charged must be calculated inclusive of the day the goods are received into, and the day they are removed from the State warehouse and any part of such a day must be regarded as a full day.

(bb) The rent-free number of days for removal of goods in respect of which rent has been paid must be calculated as contemplated in rule 17.04.

(b) (i) A person who may obtain delivery of goods in a State warehouse must apply on form DA 68 and pay rent due to the Controller in whose area of control the State warehouse is situated.

(ii) Except if the Controller authorizes delivery of goods in terms of any other document, goods in a State warehouse shall not be taken by, or delivered to, any person unless delivery is authorized by the Controller on form DA 68.

(iii) Goods may only be received into or taken from a State warehouse during the hours of attendance prescribed for the office of the Controller.

17.02 (a) Rent shall be charged on goods for the period the goods remain in a State warehouse in the circumstances and at the rate specified in paragraphs (b), (c) and (d) of this rule.

Rate at which and the circumstances in which rent is charged on goods imported or exported by travellers

(b)	Subject to rules 17.03 and 17.04, the rate at which, and the circumstances in which, rent is charged on cleared or uncleared goods imported or exported by travellers shall be in the case of goods which are -	Rate per kilogram or part thereof per day or part thereof
(i)	detained, seized or forfeited and subsequently delivered in terms of section 93;	R1,00
(ii)	sold in terms of section 43(3);	R1,00
(iii)	detained for the purposes of any other law as contemplated in section 113(8);	R1,00
(iv)	Any goods to which subparagraphs (i) to (iii) do not apply.	R1,00

Rate at which and the circumstances in which rent is charged on uncleared goods (excluding goods imported or exported by travellers)

(c)	Subject to rules 17.03 and 17.04, the rate at which, and the circumstances in which, rent is charged on uncleared imported goods or uncleared goods for export (excluding goods imported or exported by travellers) shall be in the case of goods which are -	Rate per freight ton or part thereof per day or part thereof
(i)	landed at a place to which they were not consigned and are in the State Warehouse -	
(aa)	up to and including the 14 th day from the date of receipt in the State Warehouse; and	R10,00
(bb)	for any further period after the 14 th day;	R33,00
(ii)	detained, seized or forfeited and subsequently delivered in terms of section 93 -	
(aa)	up to and including the 90 th day from the date of receipt; and	R10,00
(bb)	any further period after the 90 th day;	R33,00
(iii)	sold in terms of section 43(3)	R10,00
	any goods to which subparagraphs (i) to (iii) do not apply.	R10,00

Rate at which and the circumstances in which rent is charged on cleared goods (excluding goods imported or exported by travellers)

- (d) Subject to rules 17.03 and 17.04, the rate at which and the Rate per
circumstances in which, rent is charged on cleared imported goods freight ton
or goods cleared for export (excluding goods imported or exported or part
by travellers) shall be in the case of goods which are - thereof per
day or part
thereof
- (i) landed at a place to which they were not consigned and are
in the State Warehouse -
- (aa) up to and including the 14th day from the date of R10,00
receipt in the State Warehouse
- (bb) for any further period after the 14th day; R33,00
- (ii) not subject to compliance with any customs and excise laws
and procedures and are removed from the State
Warehouse -
- (aa) up to and including the 14th day from the date of R10,00
receipt in the State Warehouse;
- (bb) during any further period after the 14th day up to R21,00
and including the 28th day;
- (cc) during any further period after the 28th day up to R33,00
and including the date of removal;
- (iii) any goods to which any of the circumstances contemplated R10,00
in subparagraphs (i) to (ii) do not apply.

Goods on which rent is not charged

- 17.03 (a) Rent is not charged -
- (i) for the period goods remain in a State warehouse where the goods are -
- (aa) detained or seized and subsequently released by the Controller
without requiring compliance with any customs and excise laws and
procedures as a condition of such release (including goods released
as entered);
- (bb) taken to and secured in the State warehouse in error; or
- (cc) subject to a lien in terms of section 114 which are not disposed of as
provided in that section and are released to the importer, exporter,
owner or other person from whose control the goods were removed
to the State warehouse;

- (ii) during the time of removal from one State warehouse to another by or with the permission of the Commissioner.
- (b) Except where the Commissioner undertakes delivery of any goods contemplated in subparagraphs (i)(aa) to (i)(cc), delivery thereof must be taken within a period of three official working days after processing of the relevant form DA 68, failing which, rent will be charged from the day commencing after that period.
- (c) Notwithstanding any charge for rent specified in these rules on any goods, the Commissioner may, for the purposes of application of section 93, exempt the goods concerned from payment of such rent.

Rent-free period for removal of goods from a State warehouse

- 17.04 (a) For the purposes of section 17(4), a rent-free period is allowed for removal of goods from a State warehouse, which shall be -
- (i) in the case of payment of State warehouse rent, three official working days after the date the form DA 68 is processed and a receipt is issued by the Controller;
 - (ii) where the goods have been sold on a State warehouse auction or by tender -
 - (aa) three official working days from the date after delivery is granted on form DA 68; or
 - (bb) in the case of goods sold subject to a condition as contemplated in section 43(4)(b) three months from the date of sale of goods.
- (b) For the purposes of this rule a working day means the hours of attendance prescribed in the Schedule to the Rules in respect of the relevant State warehouse or if not so prescribed, the hours of attendance prescribed for the office of the Controller.

Date of implementation

- 17.05 These rules shall come into operation on **1 March 2006** in respect of all goods in, or received into, any State warehouse or a place deemed to be a State warehouse as contemplated in section 43(2).
- 17.06 (a) Notwithstanding the provisions in these rules relating to the payment of rent, with effect from 8 January 2009 no rent is payable in respect of any goods removed from a place deemed to be a State warehouse as contemplated in section 43(2).
- (b) Delivery of such goods is subject to rule 17.01(b)(ii).

RULES FOR SECTION 18 OF THE ACT

Removal of goods in bond

18.01 Goods entered for removal in bond under the provisions of section 18(1) shall –

- (a) if imported, and –
 - (i)
 - (aa) intended for direct removal in bond to a destination within the common customs area, be entered on form SAD 500, purposes code RIB and, if by road, in addition a form SAD 502;
 - (bb) intended for direct removal in bond in transit to a destination outside the common customs area, be entered on form SAD 500, purpose code RIT and, if by road, in addition a form SAD 502;
 - (ii) removed from a place where landed in the Republic from a ship, aircraft or other vehicle to a customs and excise warehouse, be entered for warehousing on forms SAD 500 and SAD 505;
 - (iii) removed from a customs and excise warehouse to another such warehouse, be entered on forms SAD 500 and SAD 505 -
 - (aa) for rewarehousing in the same area of control; or
 - (bb) for removal in bond to another area of control;
- (b) if excisable, and removed from a customs and excise warehouse to another such warehouse, be entered for removal in bond ex warehouse on a form DA 32 or forms SAD 500 and SAD 505 reflecting the applicable purpose of removal.

18.02 Except as otherwise provided in section 18 and these rules no goods shall be removed in bond until the remover has been authorised by the Controller to so remove such goods.

18.03 Any person removing goods in bond to a place in the Republic shall consign the goods to the place indicated by the Controller.

18.04 Goods imported into the Republic from any territory in Africa and which are removed in bond in terms of section 18 shall be entered for removal in bond, in the case of –

- (a) goods in transit through the Republic to a destination outside the Republic –
 - (i) by road, at the place where the goods enter the common customs area or, if such place is not a place in the Republic and such goods have not been so entered, at the place where the goods are destined to leave the Republic;

Note: Due to the closure of the Office of the Controller of Customs and Excise, Maputo with effect from 1 April 1996, the Rule is amended accordingly.

- (ii) by air, at the place where the goods are first landed in the Republic; or
 - (iii) by rail, at the place where the goods are destined to leave the Republic; and
- (b) all other goods, except goods by rail, at the place where such goods enter the Republic.

18.05 Except in respect of goods imported by rail, goods may be removed in bond within the Republic only to a place appointed as a place of entry, or to any premises or warehouse within the area of control of the Controller at that place or, in the case of excisable goods, to a licensed customs and excise warehouse if such goods are intended for warehousing in such customs and excise warehouse or, in the circumstances which he considers to be exceptional, to any other place approved by him.

18.06 (a) Except where otherwise provided in these rules, the consignee of goods removed in bond to a place in the Republic shall not take delivery of such goods or cause them to be warehoused or exported at the place of destination until he has duly entered the goods at the customs and excise office at that place, for consumption, warehousing or export, and has obtained the written authority of the Controller for such delivery, warehousing or export.

- (b) The said consignee shall also submit to the Controller at the place of destination all such invoices and documents relating to the goods as he may require as well as a numbered and date-stamped copy of the relative bill of entry for removal in bond.

18.07 The period allowed to obtain valid proof in terms of section 18(3)(b)(i) shall be calculated from the date the goods were entered for removal in bond or for export and shall be -

- (a) 30 days to obtain proof that goods removed to a place in the common customs area have been duly entered at that place;
- (b) 30 days to obtain proof that goods which were destined for any country in Africa beyond the borders of the common customs area have been duly taken out of that area;
- (c) 30 days to obtain proof that goods in transit through the Republic from any country in Africa have been duly taken out of the Republic; or

- (d) in other cases, 30 days to obtain proof that goods have been duly taken out of the common customs area,
- unless application is made for an extension to reach the Commissioner before expiry of the relevant period specified in subparagraph (i), (ii), (iii) or (iv) and the Commissioner on good cause shown extends that period.

18.08 The following particulars shall be reflected on a form SAD 500 -

- (a) Where imported goods are entered for direct removal in bond to any place in or outside the Republic, the particulars required shall be furnished fully on the SAD form applicable –
- (i) in the case where the goods are removed -
- (aa) to any place in the Republic, the goods must be entered on forms SAD 500 and SAD 505;
- (bb) outside the Republic, the goods must be entered on forms SAD 500 and SAD 502;
- (cc) to any place -
- (A) if the goods are carried by road, the customs client number and the name and address of the licensed remover of goods in bond and subcontractor must be inserted in Boxes 59 or 60 on the forms SAD 502 and SAD 505;
- (B) if the goods are carried by rail, sea or air, the relevant customs client number and the name and address of the remover in bond in boxes on the relevant forms SAD 502 and SAD 505 must be left blank and the means of carriage and the name of the vessel and the voyage number or aircraft flight number must be furnished in Box 21 on the SAD 500;
- (ii) the name, physical address and customs and excise client number of the consignee or importer must be inserted in Box 8 on the SAD 500;
- (iii) the name, physical address and customs and excise client number of the consignor or exporter must be inserted in Box 2 on the SAD 500;
- (iv) the name and customs and excise client number of the importer or exporter must be inserted in the “Importer or Exporter” box on the SAD 501;
- (v) the name and customs and excise client number of the importer or exporter must be inserted in Box 50 on the SAD 502, SAD 505 and SAD 507;
- (vi) in all instances, there must be furnished in Box 27 on the SAD 500, where the goods are destined for a place in the Republic, the appointed place of entry to which they are removed;

- (vii) in all instances when goods are exported, there must be furnished in Box 29 on the SAD 500, the place where the goods leave the Republic to a destination beyond the borders of the Republic; and
 - (b) in the case of goods which have been landed from a ship, aircraft or other vehicle at a place to which they were not consigned and are removed in bond by the master, pilot or other carrier to the place to which they were consigned in the first place, full particulars as required in accordance with manifest requirements in form DA 1 or 2 referred to in rules 7.01 to 7.03 and such additional particulars as the Controller may require.
- 18.09 Suppliers' invoices in respect of goods entered for removal in bond in the circumstances stated in rule 18.08(a) shall be produced to the Controller at the time of entry for removal.
- 18.10 If goods which have been entered for warehousing at the place of importation are required for immediate removal in bond from that place before they have been deposited in the warehouse, they may, subject to compliance with such conditions as the Controller may impose, be treated and entered for removal as if they had been so deposited.
- 18.11 If any goods referred to in rule 18.07(c) are not exported within the specified period, such goods shall be warehoused in a licensed customs and excise warehouse after entry for warehousing or dealt with as the Controller may direct.
- 18.12 In transit removal of unworked or simply prepared ivory of tariff heading 05.07 of Schedule No. 1 through the Republic is prohibited unless covered by a permit issued for that purpose by the controlling body in the country of export.
- 18.13 Beef or other meat in transit through the Republic to a destination outside the Republic shall be carried in sealed trucks or containers direct from the country of export to the place of export in the Republic and such seals shall not be broken except with the permission of the Controller at that place.
- 18.14 For purposes of section 18(13)(b) –
 - (a) application for the sorting or repacking of goods in transit through the Republic shall be made to the Controller in whose area of control such sorting or repacking

is to be done and such application shall state the reasons therefore and the nature and quantity of the goods concerned; and

- (b) sorting and repacking shall be subject to such procedures and controls including the period within which any relevant consignment shall be sorted or repacked, as may be specified by the Controller.

18.15 (a) Any imported second-hand vehicle –

- (i) in transit to an importer outside the Republic as contemplated in section 18(1A); or
- (ii) destined for storage in a customs and excise warehouse pending export;
- (iii) sold or otherwise disposed of by a licensee of a customs and excise warehouse to a purchaser in any other country within the common customs area,

must, after due entry, if removed by road, be removed to its destination as contemplated in this rule.

- (b) Where such a vehicle is removed by road to any destination, including from its place of landing to a customs and excise storage warehouse for export, it may not be removed under own power or towed, and it –

- (i) must be carried -
 - (aa) by a licensed remover of goods in bond as contemplated in section 64D and the rules made thereunder; or
 - (bb) when removed to or from such storage warehouse, by the licensee thereof using own transport as may be specified in the rules for section 64D; or
- (ii) may be carried by a road vehicle registered in any country in Africa outside the common customs area, by means of which goods were imported into the Republic, in the circumstances, and subject to compliance with the requirements, specified in rule 64D.04(1).

- (c) Where such vehicle is removed in bond to any other country within the common customs area such a vehicle may only be removed to a customs and excise warehouse in that country.

- (d) The provisions of this rule do not apply to any vehicle temporarily imported as contemplated in item 490.00 of Schedule No. 4.

- (e) For the purposes of this rule -

- (i) “**road vehicle**” includes any power-driven vehicle used on roads and a trailer; and

- (ii) “**trailer**” means a vehicle which is not power-driven and which is designed or adapted to be drawn by a power-driven vehicle and includes a semi-trailer.

RULES FOR SECTION 18A OF THE ACT

Clearance and removal of goods from a Customs and Excise warehouse for export (including supply as stores to foreign-going ships or aircraft)

- 18A.01 The Controller may require any goods entered for export or supply as stores from any customs and excise warehouse to be delivered to any examination shed or other place indicated by him or may require such goods to be retained in such warehouse for the purpose of examination or sealing prior to such export or supply and such goods shall only be removed, exported or supplied with the permission of the Controller and after production of any documents he may require in terms of rule 38.13.
- 18A.02 The goods in question shall be kept separate from any other goods conveyed on the same vehicle and shall be accompanied by a copy of the relative bill of entry, certificate or invoice mentioned in rule 20.11.
- 18A.03 The licensee of a customs and excise warehouse from which goods for supply to a foreign-going ship or aircraft as stores are removed, shall obtain on a copy of the bill of entry, certificate or invoice relating to such goods, a receipt signed by an officer of the ship or aircraft to the effect that the stores have been received on board, and such receipted copy shall, unless the Controller otherwise allows, be handed to the Controller before the departure of the ship or aircraft.
- 18A.04 (a) For the purposes of section 18A(2)(b)(i) the provisions of rule 18.07(a) shall, as may be applicable, apply *mutatis mutandis* to goods exported from a customs and excise warehouse as contemplated in these rules.
- (b) Rule 18.07(b) shall apply *mutatis mutandis* in respect of any request by the Commissioner for the submission of valid proof, information and documents as contemplated in section 18A(2)(b)(iii).
- 18A.05 If any goods removed from a customs and excise warehouse for export or supply as ship's or aircraft stores or any portion of such goods, are not shipped or

despatched, the licensee of the said warehouse shall immediately report the facts to the Controller, and he shall forthwith pay the duty on such goods or cause them to be removed to the State warehouse or take such other action as the Controller may decide which may include return of the goods to such warehouse.

18A.06 Ship's and aircraft stores referred to in section 20(4) shall include all consumable goods normally used on such ship or aircraft for propulsion, catering or maintenance, but shall not include normal durable equipment or replacements of normal durable equipment of such ship or aircraft. Such consumable goods, and normal durable equipment shall be entered on forms SAD 500 and SAD 502 or SAD 505.

- 18A.07 (a) No goods may be removed from a customs and excise warehouse as stores for a ship under the provisions of section 20(4)(d) if such ship is a coasting ship in terms of section 14.
- (b) Distillate fuel may, notwithstanding anything to the contrary in these rules be removed from a customs and excise warehouse under the provisions of section 20(4)(d) as stores for any fishing vessel not recognised as a ship of South African nationality in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

Entry for export by road of specified goods from a customs and excise warehouse

18A.08 The export by road from a customs and excise warehouse of imported or locally manufactured spirits and alcoholic beverages and tobacco products shall be subject to the following conditions:

- (a) Except in the case of the licensee of such warehouse using own transport, such goods must be removed by a licensed remover of goods in bond;
- (b) (i) Only containers which can be sealed or goods vehicles with build-up closed bodies of which the doors can be sealed shall be used;
- (ii) sealing must take place before the goods leave the premises of such warehouse;
- (c) The loading of such goods into a container or goods vehicle and the sealing of such container or vehicle shall, if the Controller so requires, take place under customs supervision;
- (d) A remover of such goods for export shall report at the border post concerned within 3 working days from the date of official sealing of the relevant container or vehicle.

- (e) (i) In cases where an exporter obtains various consignments from different customs and excise warehouses and intends to consolidate them at a central place before loading, the exporter shall obtain prior permission from the Controller in whose area of control the consolidation is to be done and such consolidation shall take place at a place approved by the Controller;
- (ii) If such permission is granted, the consolidated consignment shall be ready for packing into a container or goods vehicle and sealing under customs supervision at the approved place, within 5 working days from the date of acceptance by the Controller of the first export bill of entry in respect of such consignment;
- (f) The prescribed charges for extra or special attendance by a customs officer shall be payable;
- (g) (i) Such exports shall only take place through the following border posts in the common customs area: Beit Bridge, Lebombo, Kazangulu (Botswana), Oshikango (Namibia), Lomahasha (Swaziland) and Mhlumeni (Swaziland); and
- (ii) the vehicle carrying such goods shall follow the shortest practical route from such warehouse to the border post;
- (h) The exporter shall produce to the Controller at the place of dispatch in the Republic any such documents relating to the export as he may require including a letter of credit or proof that the consignee has ordered or paid for such goods.

18A.09 The export by road from a customs and excise warehouse of imported or locally manufactured petrol, distillate fuel, kerosene mixed with lubricity agents shall, in addition to the conditions prescribed in rule 18A.08(a), (b), (c), (d), (f), (g) and (h), as may be applicable be subject to the condition that such goods shall only be exported by the licensee of a customs and excise warehouse or by a licensed distributor as contemplated respectively in the rules numbered 19A4 and 64F.

18A.10 The provisions of rule 18.15 shall apply *mutatis mutandis* to a second-hand road vehicle which is sold or otherwise disposed of by a licensee of a customs and excise warehouse to a purchaser in a country outside the common customs area.

CHAPTER IV

CUSTOMS AND EXCISE WAREHOUSES: STORAGE AND MANUFACTURE OF
GOODS IN CUSTOMS AND EXCISE WAREHOUSES

RULES FOR SECTION 19 OF THE ACT

Approval of customs and excise warehouses

- 19.01 An application form for the licensing of a customs and excise warehouse shall be completed in all details and shall be accompanied by such plans (signed and dated by the applicant), description of the warehouse or other particulars as may be required.
- 19.02 Application for the licensing of a customs and excise warehouse may be made to the Controller in respect of –
- (a) any premises, store, fixed vessel, fixed tank, yard or other place which complies with such conditions as may be deemed necessary in each case including any condition relating to construction, situation, access or security; and
 - (b) different premises, stores, vessels, tanks, yards or other places on a single site, or on more than one site as a single customs and excise storage warehouse, a single customs and excise manufacturing warehouse or a single special customs and excise warehouse in the name of one licensee.
- 19.03 Separate customs and excise warehouses on the same site may be licensed in the names of different persons subject to the conditions referred to in rule 19.02.
- 19.04 Any customs and excise warehouse licensed for the storage or manufacture of any particular commodity or article shall not be used for any other purpose, except with the written permission of the Controller.
- 19.05 The licensee of a customs and excise warehouse shall keep at the warehouse, in a safe place accessible to the controller, a record in a form approved by the Controller of all receipts into and deliveries or removals from the warehouse of goods not exempted from entry in terms of section 20(3), with such particulars as will make it possible for all such receipts and deliveries or removals to be readily identified with the goods warehoused, and with clear references to the relative bills of entry passed in connection therewith.

19.06 Any fixed vessel, tank, receiver, vat or other container licensed as a customs and excise warehouse or used in a customs and excise warehouse for the storage or manufacture of any dutiable goods shall be gauged in a manner approved by the Controller and any fitting, meter, gauge or indicator necessary for ascertaining the quantity of any goods contained in such vessel, tank, receiver, vat or other container shall be supplied and fitted by the licensee at his expense.

19.07 The licensee of a customs and excise warehouse shall notify the Controller immediately of, or prior to, any change, or contemplated change, of whatever nature, in his legal identity, name or address of his business, of the structure of his warehouse or of the plant in such warehouse or of goods manufactured by him.

19.08 (a) Application for extension of the two year period contemplated in section 19(9) shall be made to the Controller at least 30 days before the date that period expires.

(b) Such application must state fully the reasons which necessitate an extension and must be supported by any documents which substantiate the facts or circumstances stated in the application.

(c) All documents must be in chronological order and sequentially numbered.

(d) For the purposes of section 19(9)(a) -

“**maceration**” is a process in wine and spirits manufacturing in which the crushed grape skins are left in the juice or other fruit peels are left in alcohol until they have imparted the desired colour or the proper amount of tannins and aroma.

RULES FOR SECTION 19A OF THE ACT

Special provision in respect of customs and excise warehouses in which excisable or fuel levy goods are manufactured or stored.

Rules regarding the manufacture, payment of duty and controlled movement of beer, tobacco products, spirits and fuel levy goods.

19A General rules

Numbering and application of provisions

- 19A.01 (a) (i) The rules numbered 19A are general rules;
- (ii) The rules numbered 19A1 are rules in respect of tobacco products;
- (iii) The rules numbered 19A2 are rules in respect of beer;
- (iv) The rules numbered 19A3 are rules in respect of spirits;
- (iii) The rules numbered 19A4 are rules in respect of fuel levy goods.
- (b) The provisions of these rules apply to the following goods:
- (i) Excisable goods specified in Section A of Part 2 of Schedule No 1 - the Act” includes any provision of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- “VMP warehouse” means a customs and excise warehouse licensed for primary production of spirits defined in rule 19A3.01;
- cise warehouse licensed for secondary production of spirits defined in rule 19A3.01.
- “warehouse” means any licensed customs and excise manufacturing or storage warehouse.
- (d) Except as otherwise provided in section 19A and these rules –
- (i) any provision of this Act relating to a customs and excise manufacturing or storage warehouse, the manufacture or storage of goods in such a warehouse including liability for duty, payment of duty, removal of goods from such warehouse for home consumption, removal in bond, export, entry under rebate of duty, the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;
- (ii) sections 59A and 60 and the rules therefor including the definitions in such rules;
- (iii) sections 64D and 64E and the rules therefor including the definitions in such rules; and
- (iv) the rules numbered 120A, where applicable;
- shall, apply *mutatis mutandis* to the licensing of, and any activity in or in connection with, any licensed customs and excise warehouse in which beer, spirits, tobacco products or fuel levy goods are manufactured or such goods or any imported goods referred to in these rules, are stored.

Applications for and refusal, suspension or cancellation of a license

- 19A.02 (a) A person applying for a licence or renewal of a licence for a customs and excise manufacturing warehouse or a customs and excise special storage warehouse must –
- (i) apply on form DA185 and the appropriate annexures thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences, any requirement specified in Schedule No. 6 and any additional requirements that may be determined by the Commissioner;
 - (ii) submit with the application the completed agreement in accordance with the *pro forma* agreement specified in these rules;
 - (iii) before a licence is issued furnish the security the Commissioner may require.
- (b) (i) An expression in the *pro forma* agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act or in the rules for section 60 or these rules.
- (ii) The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the *pro forma* advice to be issued in respect of suspension or cancellation of a license.
- (c) The provisions of section 60(2) shall apply *mutatis mutandis* in respect of the refusal of an application for a new licence or renewal of a licence, or the withdrawal or suspension of a licence for a customs and excise warehouse.

Delegation

19A.03 Subject to section 3(2), where –

- (a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of this Act, including these rules, is not specifically delegated, or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned, to any Controller or officer in these rules or in any section or rule regulating the operation of customs and excise warehouses, such power is delegated or such duty is assigned, as the case may be, to the Assistant General Manager, Operations, Customs and Excise.

Issue of invoices or dispatch delivery notes in respect of goods removed from a customs and excise warehouse

19A.04 (a) Any licensee of any customs and excise warehouse who removes any goods, to which these rules relate, from such warehouse for any purpose contemplated in section 20(4), including for the purpose of a rebate of duty under the provisions of section 75 and any item of Schedule No. 6, or who removes any fuel levy goods from duty paid stocks for any purpose, must in addition to any other document required to be completed in respect of any procedure prescribed in the Act, complete an invoice or dispatch delivery note, serially or transaction numbered and dated which must include at least –

- (i) (aa) the licensed name, customs client number, warehouse number (where applicable) and physical address of the licensee who so removes such goods;
- (bb) a description of the goods so removed, including the relevant tariff item and if applicable, the rebate item;
- (cc) the quantity of goods so removed;
- (dd) the date of removal of the goods;
- (ee) the name or business name (if any) and the address of the person to whom the goods are removed;
- (ff) the number of the customs and excise warehouse to which the goods are removed, if applicable;
- (gg) where applicable, the price charged for each unit and the total price of the invoice goods;

- (hh) where the goods are removed to a destination in the Republic for any purpose other than home consumption, the customs client number of the person to whom the goods are so removed.
 - (ii) in respect of –
 - (aa) beer, the registered brand name and the alcoholic strength by volume for each brand;
 - (bb) spirits, the volume, and percentage of alcohol by volume at 20° Celsius;
 - (cc) tobacco products-
 - (A) cigarettes, the number;
 - (B) all other, the mass;
 - (dd) fuel levy goods, the volume at 20° Celsius,
 - (iii) in all instances, any other particulars required for determining the tariff classification and amount of duty on any goods specified in such invoice and removed from such warehouse.
- (b)
 - (i) Such invoice or dispatch delivery note issued in respect of beer and tobacco products removed for home consumption and payment of duty from any customs and excise manufacturing warehouse and spirits removed from a VMP warehouse, shall be deemed to be an entry for home consumption on compliance with the requirements of section 38(4).
 - (ii) Such invoice must be issued for fuel levy goods removed for any purpose from a customs and excise storage warehouse and such invoice shall be deemed to be an entry for home consumption and payment of duty and the duty due thereon must be accounted for in the monthly accounts, subject to authorised deductions, as contemplated in the rules numbered 19A4.02;
 - (iii) Fuel levy goods removed from a customs and excise manufacturing warehouse for any purpose shall be deemed to be entered for home consumption and payment of duty on completion and issuing of the document contemplated in rule 19A4.02.

Keeping of books, accounts and documents

- 19A.05 (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must, as required in terms of rule 60.08(2) –

- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued;
 - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.
- (b) Such books, accounts, documents and data must include-
- (i) Where applicable-
 - (aa) proper accounting records of each type of goods received, stored, used or removed;
 - (bb) copies of invoices, dispatch delivery notes, bills of entry, transport documents, orders, payments received and made, proof of delivery to the consignee in respect of goods removed for any purpose excluding home consumption and payment of duty;
 - (cc) copies of the contract of carriage entered into between the licensee and the licensed remover of goods in bond and delivery instructions issued to such remover in respect of each consignment;
 - (dd) copies of the monthly accounts rendered for payment of duty in respect of warehouses authorised to dispose of goods for home consumption;
 - (ee) a stock account balanced monthly whether or not the licensee is authorised to dispose of goods for home consumption and payment of duty.
 - (ii) where such warehouse is a manufacturing warehouse, a stock record wherein the licensee must record daily-
 - (aa) receipts of materials for manufacturing;

- (bb) quantities of materials used and the nature and quantities of excisable goods produced from such materials;
- (cc) the production rate of the materials used;
- (dd) nature and quantities of by-products or other goods manufactured;
- (ee) a separate record for losses in the manufacturing process or through working, pumping, handling or any similar causes or from natural causes as contemplated in item 624.30 of Schedule No. 6.

Closing and submission of accounts in respect of goods manufactured and received into, and removed from, a customs and excise warehouse

19A.06 (a) For the purposes of section 20(4), any goods to which these rules relate that are entered for removal and removed from any customs and excise warehouse for any purpose, including to any other warehouse, shall be subject to the provisions of section 19A and to such restrictions, procedures and other requirements prescribed in these rules.

- (b) (i) (aa) Subject to the provisions of these rules, for the purposes of sections 38(4) and 39(2A) and payment of duty, excise duty accounts on form DA 260 in respect of beer, tobacco products or spirits or on forms DA 159 or DA 160 for fuel levy goods or biodiesel, together with the validating form SAD 500 for each customs and excise manufacturing warehouse in respect of all such goods produced and received in, and removed from such warehouse for any purpose specified in section 20(4), during the previous month or during such other period as may be prescribed in these rules, must be submitted by the licensee to reach the Controller within 30 days after the -
 - (A) date of closing of duty accounts as specified in paragraph (c); or
 - (B) last day as specified in the proviso to paragraph (d);
 during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipts of duties and other revenue;
- (bb) the provisions of paragraph (aa) shall *mutatis mutandis* apply to any storage warehouse for fuel levy goods from which any

such goods are removed for home consumption or any other purpose.

- (ii) Such month is referred to in these rules as “accounting month” and is calculated between the dates of closing of accounts from the day after such closing of accounts as follows-
 - (aa) from the specific day in the specific month to the numerically corresponding day in the following month, less one (for example, where closing of accounts, takes place on the 25th January, the accounting month is calculated from 26th January to 25th February; or
 - (bb) where calculation must commence on the first day of a month to the last day of that month; or
 - (cc) where calculation must commence from the last day of a month which contains more days than the next succeeding month, the accounting month expires one day before the end of the latter month, for example, from 31 January to 27 or 28 February;
 - (dd) if a new licensee commences business on a certain date the first accounting month shall be the period from such date to the date of the first closing accounts.
- (c)
 - (i) For the purposes of paragraph (b)(i), closing of duty accounts is by arrangement with the Controller, on a date between the 25th day and the last day of the month and the date so arranged shall apply permanently in every month during the existence of such arrangement.
 - (ii) Notwithstanding that the date for closing of accounts may fall on a Saturday, Sunday or public holiday, the calculation of the date for submission of accounts or payment of duty must commence on the day after the date of such closing of accounts.
- (d) Notwithstanding paragraph (c), the Controller may, on such conditions as he may impose in each case, determine any other date for the closure of accounts: provided that where a licensee is allowed to close accounts on any day after the last day of any month, the date for calculation of the date for submission of accounts or payment of duty must commence on the first day of the month following such last day.

- (e) (i) For the purposes of account forms DA 159, DA 160 and DA 260 no quantity in respect of any goods removed
 - (aa) under rebate of duty, or
 - (bb) in bond under the provisions of section 18; or
 - (cc) in terms of any procedure authorising a refund of duty; or
 - (dd) exported under section 18A,
 may be deducted from the total quantity of goods accounted for on such form, unless it is proved that liability for duty has ceased as contemplated in rule 19A.09.
- (ii) Where a lesser quantity of goods is removed and entered at the place of destination in the case of goods removed in bond or exported or delivered to the rebate user or to any consignee in a BLNS country, only the quantity so entered at the place of destination or exported or delivered may be so deducted on the relevant form DA 159, DA 160 or DA 260.
- (f) (i) Where licensing of a customs and excise warehouse is restricted for special or limited purposes as contemplated in section 19A(1)(a)(ii), with the effect that goods stored therein may only be exported or supplied to a customs and excise storage warehouse licensed for supplying stores to foreign-going ships or aircraft or goods to duty free shops, the licensee must submit to the Controller within 30 days after the end of March, June, September or December for each quarter an account on form DA 260 or DA 159 as the case may be, in respect of goods received into, goods removed from and goods in stock, in such warehouse.
- (ii) Where the licensee of a customs and excise storage warehouse is allowed to store imported and locally-produced goods for export or for operating a duty free shop such goods must be accounted for separately in such account.

Removal of goods in bond to a BLNS country

- 19A.07 (a) No beer, tobacco products, spirits or spirituous beverages may be removed to a customs and excise storage warehouse in a BLNS country unless the goods are removed to such a warehouse licensed for the supply of stores to foreign-going ships or aircraft or as a duty free shop.

- (b) Fuel levy goods may only be removed to any BLNS country from stocks entered or deemed to have been entered for home consumption and payment of duty as provided in these rules.

Duties amended in a taxation proposal under section 58(1)

- 19A.08 (a) Whenever the Minister tables a taxation proposal as contemplated in section 58(1) in respect of any goods to which these rules relate, such goods shall, for the purposes of section 38(4) be deemed to have been entered for home consumption before the taxation proposal is tabled in the case of –
- (i) beer and tobacco products in a customs and excise manufacturing warehouse and spirits in a VMP customs and excise manufacturing warehouse, where the invoice prescribed in these rules has been issued and the goods removed from such warehouse before such time;
 - (ii) spirits in a VMS warehouse, where spirits entered on form SAD 500 for removal from a VMP manufacturing warehouse to a VMS manufacturing warehouse are received in such VMS warehouse before such time;
- (b) (i) Licensees must close their duty accounts in respect of goods of which the duties are amended in such taxation proposal at the time such proposal is tabled and such time shall be regarded as the time of closing of accounts;
- (ii) Because the licensee closes the account at the time of such taxation proposal, the date for submission of accounts and payments of the duties due for the accounting month as provided in these rules must be calculated from the day after the date of such taxation proposal;
- (iii) The next accounting month must commence immediately after the time of closing of accounts and must close for such month on the date of closing of accounts in the next month as contemplated in rule 19A.06.
- (c) For the purpose of this rule ‘the time a taxation proposal is tabled’ and cognate expressions means the actual time of the day the Minister tables such a proposal.

Liability for duty

- 19A.09 (a) Subject to paragraph (b), the provisions of section 18(2) and (3) in the case of goods entered for removal in bond from a customs and excise warehouse or section 18A(1) and (2) in the case of goods entered for export from a customs and excise warehouse apply in respect of the liability, and the termination of liability, for duty of a licensee who so enters such goods and such liability shall, unless proof has been obtained in an improper or fraudulent manner, cease in the case of –
- (i) goods contemplated in section 18(3)(a), when it is proved that the goods have been received in and entered for re-warehousing at the destination in the Republic or any BLNS country to which they were removed in terms of the removal in bond bill of entry or any other document authorised in these rules;
 - (ii) goods contemplated in section 18A(1) and (2) that are exported by road to any country, outside the common customs area, when it is proved that the goods have been received in such country at the customs office of destination;
 - (iii) goods exported by means of any ship or aircraft, when it is proved that the goods have been loaded into, for carriage by, such ship or aircraft;
 - (iv) goods carried by rail to any destination outside the Republic, when the consignor confirms that the goods were received by the consignee in the country of destination; or
 - (v) goods entered under rebate of duty for delivery to a rebate user, when such user duly acknowledges receipt of such goods.
- (b) where in respect of any goods removed in bond or removed in terms of any procedure authorising a refund of duty or exported –
- (i) any proof has been improperly or fraudulently obtained; or
 - (ii) any goods are damaged or destroyed or lost or diminished before liability has ceased as contemplated in paragraph (a),
- the licensee shall furnish a full report within 14 days after such an event and pay any duty due to the Controller.

- (c) The liability for duty in terms of Section A of Part 2 of Schedule No. 1 cleared in terms of the provisions of rebate item 460.24 by a licensed manufacturer or a licensed supplier (SOS warehouse licensed for denaturing of spirits) on form SAD 500 (GR) or (XGR) shall cease upon entering the goods into a licensed warehouse for locally manufactured goods on a form SAD 500 (ZRW) within 30 days from the entry on a form SAD 500.

Spirits or fuel levy goods reprocessed in or removed or returned to a customs and excise manufacturing warehouse on which a percentage deduction contemplated in section 75(18) has been claimed and granted

- 19A.10 Whenever any spirits or fuel levy goods on which any deduction from the dutiable quantity has been claimed and granted as contemplated in section 75(18) are reprocessed in or removed or returned to a customs and excise manufacturing warehouse, such warehouse in which such goods are so reprocessed, removed or returned must add any such quantity to the dutiable quantity for the accounting month during which such goods were so reprocessed, removed or returned.

CUSTOMS AND EXCISE ACT, 1964, (ACT 91 OF 1964)

LICENSING OF CUSTOMS AND EXCISE WAREHOUSES

Pro Forma Agreement as contemplated in rule 19A.02(a)(ii)

Annexure A

As

(Full name of applicant – hereinafter referred to as “licensee”)

Of

(Physical address of applicant – not a PO Box)

herein represented by

Full name

Witness

*duly authorised thereto by virtue of -

- (a) *a resolution passed at a meeting of the Board of Directors held at _____ on _____ day of _____; or
- (b) *express consent in writing of all partners of a partnership / *members of the close corporation / *trustees of the trust; or
- (c) *being a person having the management of any other association of persons referred to in rule 60.02(2)(a)(iv),

has applied for a customs and excise warehouse license; and

*(*Delete whichever is not applicable)*

as the Commissioner has considered the application and decided to issue a licence subject to compliance with the terms and conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1. Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner and to maintain such security until such time as the Commissioner is on good cause shown satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.

2. Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –
- (a) understands that its rights to conduct the business of a customs and excise warehouse are subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be imposed by the Commissioner.
 - (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures of this agreement.
 - (c)
 - (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act, the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions as well as the banking accounts and records relating to the business conducted under the licence.
 - (ii) Licensee hereby agrees to and authorises the inspection of such books and business banking accounts as the Commissioner and the delegated officers may require.
 - (d) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee (except in respect of subparagraph (v)) of the licensee -
 - (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition or requirement of this agreement or any condition or obligation imposed by the Commissioner in respect of such licence;
 - (iii) is convicted of any offence under the Act;
 - (iv) is convicted of any offence involving dishonesty;
 - (v) is sequestered or liquidated;
 - (vi) fails to comply with the qualification requirement set out in the rules for section 60; or

(vii) ceases to carry on the business for which the licence is issued, and licensee acknowledges the right of the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.

(e) Licensee in addition undertakes:

(i) to keep on the business premises books, accounts, documents and other records relating to the transactions of the business comprising, where applicable, at least -

(aa) in the case of imported goods, copies of the relative import bills of entry, transport documents, suppliers' invoices, packing lists, bank stamped invoices, payment advices and other documents required in terms of section 39 of the Act;

(bb) in the case of excisable and fuel levy goods not being distillate fuel referred to in subparagraph (cc), books, accounts and documents as the Controller may require;

(cc) in the case of distillate fuel on which a refund of fuel levy is granted in terms of item 670.04 of Schedule No. 6, the documents specified in Note 6 to item 670.04;

(dd) in the case of exported goods, copies of the relative export bills of entry, invoices and other transport documents;

(ee) in the case of goods subject to rules of origin such records as are prescribed in the rules for sections 46, 46A and 49;

(ff) every contract entered into and any instruction give to any licensed remover of goods in bond in respect of the carriage of goods by such remover;

(gg) books, accounts, documents and proof of fulfillment of any obligation relating to the removal of goods in bond, re-warehousing, goods exported or other goods for which such acquittals are required in terms of any provision of the Act; and

(hh) to keep any other books, accounts, documents and other records which may be required in terms of any rule relating to any business transacted as a licensee of a customs and excise warehouse under the provisions of the Act;

(ii) notwithstanding any other provisions in the Act or the rules thereto, to

keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;

- (iii) to answer and to ensure that any employee answers, fully and truthfully any questions of the Commissioner or an officer relating to its business or that of its principal required to be answered for purposes of the Act;
- (iv) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his delegated officer may require;
- (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure -
 - (aa) that the contents of all documents submitted to the Commissioner or a Controller or purposes of the Act are duly verified and completed in accordance with the provisions of the Act;
 - (bb) that every person in the employ of the licensee and engaged in the customs and excise warehouse business of the licensee is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act;

3. Licensee is aware of the obligation to account for all dutiable goods produced or stores and at all times to be able to prove the fulfillment of any obligation relating to the payment of duty, export, removal in bond or other movement of such goods as may be required in terms of any provision of this Act.

4. Licensee understands and accepts -
- (a) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such a licence;
 - (b) the condition prescribed in the rules for section 60 that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be, transacting the customs and excise related business with clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.
5. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.

6. (a) The licensee chooses *domicillium citandi et executandi* at:

- (b) The Commissioner chooses *domicillium citandi et executandi* at:

7. Thus done and signed at _____ on this

Licensee

Witness

Thus done and signed at _____ on this

For and on behalf of the Commissioner

Witness

19A1 RULES IN RESPECT OF TOBACCO PRODUCTS

Customs and excise warehouses for the manufacture and storage of tobacco products

- 19A1.01 (a) These rules are additional to the general rules numbered 19A.
- (b) Customs and excise warehouses for the manufacture or storage of tobacco products may be licensed only for the purposes of –
- (i) manufacturing of tobacco products;
 - (ii) storage of such products for export; or
 - (iii) storage of such products for supply to any other customs and excise storage warehouse licensed as-
 - (aa) a duty free shop; or
 - (bb) for the supply of dutiable goods to foreign-going ships or aircraft.
- (c) For the purposes of section 19A(a)(ii), tobacco products stored as contemplated in paragraph (b)(ii) or (iii) may not be removed from such warehouses for home consumption and payment of duty, except if the Commissioner, on good cause shown, and subject to such conditions as he may impose in each case, permits such removal.

Clearance of tobacco products from a customs and excise manufacturing warehouse and payment of duty

- 19A1.02 (a) Where tobacco products are removed from a customs and excise manufacturing warehouse for home consumption and payment of duty, the invoice or dispatch delivery note duly completed and issued as contemplated in rule 19A.04, shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry for home consumption of such tobacco products.
- (b) (i) In accordance with rule 19A.06, excise accounts on prescribed form DA 260 and its applicable schedules together with the validating form SAD 500 must be submitted for the relevant accounting month by the licensee of the customs and excise manufacturing warehouse

to reach the Controller within 30 days after the date or the last day contemplated in rule 19A.06(b)(i) during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue.

- (ii) Excise duty payable as calculated on form DA 260 and entered on form SAD 500 must be paid, to reach the Controller within 60 days after the date or last day contemplated in rule 19A.06(b)(1), but not later than the penultimate working day of the second month following such date or day, during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue.
- (iii) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the period and the hours of business specified in subparagraph (i).

Removal of tobacco products from one excise manufacturing warehouse to another excise manufacturing warehouse

- 19A1.03 Any tobacco product may be removed in bond from one customs and excise manufacturing warehouse to another customs and excise manufacturing warehouse for the purpose of reprocessing or repacking only when these manufacturing warehouses are licensed by the same licensee.

“Due entry of goods received in bond from a customs and excise warehouse

- 19A1.04 Whenever goods referred to in these rules are removed in bond from any warehouse to any other warehouse on issuing form SAD 500 (ZIB), the licensee of the receiving warehouse must submit for processing a duly completed form SAD 500 (ZRW) to the Controller in respect of goods received within 14 days after the date of removal of those goods from the premises of the dispatching warehouse for delivery to the receiving warehouse.”

Customs and excise warehouses for the manufacture or storage of beer

- 19A2.01 (a) These rules are additional to the general rules numbered 19A.
- (b) A customs and excise warehouse for the manufacture or storage of beer may be licensed only as a -
- (i) manufacturing warehouse for the manufacture of beer;
 - (ii) special customs and excise storage warehouse for the storage of beer for export; or
 - (iii) special customs and excise storage warehouse for the storage of beer for supply to any other special customs and excise storage warehouse licensed as -
 - (aa) a duty free shop; or
 - (bb) for the supply of dutiable goods to foreign-going ships or aircraft
- (c) For the purposes of section 19A(1)(a)(ii), beer stored as contemplated in paragraph (a)(ii) and (iii), may not be removed from such warehouses for home consumption and payment of duty, except if –
- (i) The Commissioner on good cause shown, and subject to such conditions as he may impose in each case, permits such removal;
 - (ii) The goods are required to be removed from such warehouse as contemplated in section 19(9).

Clearance of beer from the customs and excise manufacturing warehouse and payment of duty

- 19A2.02 (a) Where beer is removed from a customs and excise manufacturing warehouse for home consumption and payment of duty, the invoice or dispatch delivery note duly completed and issued as contemplated in rule 19A.04, shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry for home consumption of such beer.
- (b) (i) In accordance with rule 19A.06, the excise duty account on prescribed form DA 260 together with the validating SAD 500 must

be submitted for the relevant accounting month by the licensee of the customs and excise manufacturing warehouse to reach the Controller within 30 days after the date or last day contemplated in rule 19A.06(b)(i) during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue.

- (ii) Excise duty payable as calculated on form DA 260 and entered on SAD 500 must be paid to reach the Controller during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue in respect of the account for -

- (aa) every month except February -

- (A) half of the duty payable within 30 days after such date or last day, but not later than the penultimate working day of the month following such date or day during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue;

- (B) half of the duty payable within 60 days after such date or day, but not later than the penultimate working day of the second month following such date or day during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue;

- (bb) February, the full amount payable on or before the penultimate working day of March.

- (iii) If payment is made by electronic funds transfer, proof of payment must be submitted to the Controller during the hours of business specified in sub-paragraph (i).

- (c) Any goods removed for any of the following purposes must be entered, in the case of -

- (i) export, including supply as stores for foreign-going ships or aircraft, on form SAD 500, at the office of the Controller, before removal of the goods so exported or supplied;
 - (ii) rebate of duty, on form SAD 500 (ZGR) at the office of the Controller before each such removal;

- (iii) removal in bond to any customs and excise warehouse within the common customs area, on form SAD 500 (ZIB) at the office of the Controller before each such removal.
- (d) Whenever goods referred to in these rules are removed in bond from any warehouse to any other warehouse on issuing form SAD 500 (ZIB), the licensee of the receiving warehouse must submit for processing a duly completed form SAD 500 (ZRW) to the Controller in respect of goods received within 14 days after the date of removal of those goods from the premises of the dispatching warehouse for delivery to the receiving warehouse.
- (e) (i) Any removal in bond or export of beer by road is subject to the provisions of the rules for section 64D.
- (ii) Subject to the provisions of any other rule regarding the carriage of goods, a copy of the processed bill of entry must accompany the driver of the vehicle to its destination and must be produced to an officer on demand.

19A3 RULES IN RESPECT OF SPIRITS

Customs and excise warehouses which may be licensed for the primary manufacture (VMP), secondary manufacture (VMS) or storage of spirits

- 19A3.01 (a) (i) These rules are additional to the general rules numbered 19A.
- (ii) Unless the context otherwise indicates or where otherwise specified, for the purpose of the rules in respect of spirits –
- “blend” means the combination of two or more different substances, including spirits, to obtain one potable product;
- “matured spirits” means spirits stored in wooden vats for a period of at least three years to allow the said spirits to mature;
- “mixture” means the combination of two or more spirituous products of the same class or kind to obtain a product of a consistently acceptable standard;
- “spirits” includes spirituous products;
- “spirituous products” includes spirituous beverages;

“stabilisation” means storage of a blend or mixture for a period of time to allow the combined product to become stable;

“VMP warehouse” means a customs and excise manufacturing warehouse for primary production of spirits used for the activities prescribed in these rules;

“VMS warehouse” means a customs and excise manufacturing warehouse for secondary production of spirits used for the activities prescribed in these rules.

- (iii) When accounting for any quantity of spirits in terms of any provision of these rules, such quantity must be expressed in litres of absolute alcohol at 20°C.
- (b) A customs and excise warehouse for the manufacture or storage of spirits may be licensed only as a -
 - (i) manufacturing warehouse for primary production of spirits (VMP warehouse);
 - (ii) manufacturing warehouse for secondary production of spirits (VMS warehouse) for use in spirituous beverages;
 - (iii) special customs and excise storage warehouse for the storage of spirits for export, which may be for -
 - (aa) unpacked spirits; or
 - (bb) packed spirits.
 - (iv) special customs and excise storage warehouse for the storage of spirits for supply to any other special customs and excise storage warehouse licensed as a duty free shop or for the supply of dutiable goods to foreign-going ships and aircraft;
 - (v) (aa) special customs and excise storage warehouse licensed for full or partial denaturing of spirits, and supply of such partially denatured spirits to
 - (A) rebate users registered as contemplated in the rules for section 59A to obtain such spirits under rebate of duty in terms of the provisions of item 621.08 of Schedule No. 6 for the manufacture of other goods or for such other purposes as may be specified in such item;
 - (B) any warehouse contemplated in subparagraph (bb); or
 - (C) export such denatured spirits.

- (bb) special customs and excise storage warehouse licensed for packing or repacking of undenatured and partially denatured spirits for supply to rebate users registered as contemplated in subparagraph (aa).
- (c)
 - (i) Manufacture of spirits from the distillation or re-distillation of any substance must take place in a VMP warehouse; and
 - (ii) the following additional activities may take place in a VMP warehouse.
 - (aa) re-distillation of spirits (including gin distillation);
 - (bb) maturation of spirits;
 - (cc) maceration of spirits;
 - (dd) mixing of the same types of spirits to obtain consistent quality standards.
- (d)
 - (i) Blending and stabilising of spirits must, and in addition, bottling and packaging of spirits may, take place in a VMS warehouse
 - (ii) Any installation used only for bottling and packaging of spirits will not be licensed as a VMS warehouses.
- (e) For the purposes of section 19A(1)(a)(ii), spirits stored in a customs and excise storage warehouse as contemplated in paragraph (b)(iii), (iv) or (v) may not be removed from such warehouse for home consumption and payment of duty, except if -
 - (i) the Commissioner on good cause shown, and subject to such conditions as he may impose in each case, permits such removal;
 - (ii) the goods are required to be removed from such warehouse in terms of the provisions of section 19(9); and
 - (iii) in the case of (b)(v), such spirits are removed to a registered rebate user as contemplated in that paragraph.

Clearance of spirits from a VMP warehouse and payment of duty

- 19A3.02 (a) (i) Where spirits are removed from a VMP warehouse for home consumption and payment of duty, the invoice or dispatch delivery note duly completed and issued as contemplated in rule 19A.04,

shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry for home consumption of such spirits.

- (ii) (aa) In accordance with rule 19A.06, the excise account on prescribed form DA 260 and its schedules, in respect of the relevant accounting month, which is to be specified in such form, together with the form SAD 500 must be submitted by the licensee of the VMP warehouse and the excise duty as calculated on form DA 260 paid by the licensee of the VMP warehouse to reach the Controller within 30 days after the date or last day contemplated in rule 19A.06(b)(i), but not later than the penultimate working day of the month following such date or day during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue.
 - (bb) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the period and the hours of business specified in subparagraph (aa).
- (b) (i) The quantity of spirits removed in bond or exported from a VMP warehouse may, where liability has ceased as contemplated in rule 19A.09, be deducted by the licensee of such warehouse from the quantity of spirits accounted for, provided the rate of duty leviable at the time the spirits were so entered for removal in bond or for export is the same as the rate applicable to the quantity of spirits so accounted for on such form DA 260.
- (ii) where such **rates differ an appropriate adjustment must be made on form DA 260** in respect of the excise duty payable.

Clearance of spirits received in a VMS warehouse and payment of duty

- 19A3.03 (a) Whenever goods referred to in these rules are removed in bond from a VMP warehouse to a VMS warehouse on issuing form SAD 500 (ZIB), the licensee of the VMS warehouse must submit for processing a duly completed form SAD 500 (ZRW) to the Controller in respect of goods received within 14 days after the date of removal of those goods from the premises of the VMP warehouse for delivery to the VMS warehouse.

- (b) (i) For the purposes of section 19A(1)(a)(i), all spirits received in the VMS warehouse from a VMP warehouse during any accounting month shall be deemed to have been entered for home consumption on the date of closing of accounts as prescribed in rule 19A.06.
- (ii) The stock account duly completed in respect of all the spirits received during such accounting month shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry of such spirits.
- (c) Only spirits that have been blended and stabilised (spirituous beverages) may be removed from a VMS warehouse for purposes of home consumption.
- (d)(i) Subject to paragraph (e), from the quantity removed from –
 - (aa) a customs and excise storage warehouse (OS) for imported goods or from a VMP to a VMS warehouse, there may be deducted by the licensee of the VMS warehouse 1,5 per cent as contemplated in section 75(18)(a) and 0,25 per cent as contemplated in section 75(18)(b)(i); or
 - (bb) a SVM warehouse to a VMS warehouse, there may be deducted by the licensee of a VMS warehouse 1,5 per cent only as contemplated in section 75(18)(a).
- (ii) The SVM warehouse referred to in subparagraph (i), means an SVM warehouse in which a final product of fermentation produced therein is stripped as contemplated in Additional Note 4 to Chapter 22 of Part 1 of Schedule No. 1 and removed to a VMS warehouse.
- (e) The 1,5 per cent referred to in paragraph (d) is only deductible in respect of spirits used for blending and stabilising and the quantity of spirits so used must be specified on form DA 260.
- (f) An excise account on prescribed form DA 260 and its schedules, in respect of the excise duty payable on the spirits received from the VMP warehouse during the relevant accounting month and deemed to have been entered for home consumption as contemplated in paragraph (b), which is

to be specified in such form, together with the validating form SAD 500, must be submitted by the licensee of the VMS warehouse to reach the Controller within 30 days after the date of closing of accounts, during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue.

- (g) (i) The excise duty payable as calculated on form DA 260 and entered on form SAD 500 must be paid to the Controller in respect of such spirits –
 - (aa) blended into blends not containing at least 25 per cent alcohol by volume matured spirits, within 110 days after the end of such accounting month;
 - (bb) blended into blends containing at least 25 per cent alcohol by volume matured spirits, within 130 days after the end of such accounting month; and
 - (cc) not blended into blends as described in paragraph (aa) and (bb), within 110 days after the end of such accounting month.
 - (ii) Payment of such excise duty must reach the Controller within the specified periods during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
 - (iii) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the periods and the hours of business specified in paragraph (f).
- (h) (i) For the purpose of section 19A(1)(c), the quantity of spirits in spirituous beverages removed in bond or exported from a VMS warehouse after entry or deemed entry for home consumption may, after liability has ceased as contemplated in rule 19A.09, be deducted from the quantity of spirits received in such VMS warehouse and accounted for on form DA 260 for payment of excise duty in any subsequent month, provided the licensee proves that the rate of duty applicable at the time the spirits were so entered and removed or exported is the same as the rate applicable to the quantity of spirits so accounted for on the relevant form DA 260 for payment of excise duty.

- (ii) Where the licensee produces such proof and such rate differs, an appropriate adjustment must be made on form DA 260 in respect of the excise duty payable.
- (iii) Where the licensee is unable to produce proof of such rate of duty in respect of the spirits so removed in bond or exported, the lowest rate applicable during a period of 12 months prior to the date on which the spirits were so entered for removal in bond or for export must, for the purposes of section 75(11A), be used for determining any adjustment to the excise duty payable for such accounting month.

Removal of spirits from a special customs and excise warehouse for any purpose other than for home consumption and payment of duty

- 19A3.04 (a) No spirits shall be removed from one VMP warehouse to another VMP warehouse unless for any of the following purposes –
- (i) re-distillation (including gin distillation);
 - (ii) maturation;
 - (iii) maceration;
 - (iv) mixing, in order to obtain consistent quality standards.
- (b) Spirits may be removed in bond from a VMP warehouse to a VMS warehouse for the purposes specified in rule 19A3.01(b)(ii) and (d).
- (c) No spirits may be removed in bond between one VMS warehouse and another VMS warehouse.
- (d) (i) Any goods removed for any of the following purposes must be entered, in the case of:
- (aa) export, including supply as stores for foreign-going ships or aircraft, on form SAD 500, at the office of the Controller, before removal of the goods so exported or supplied;
 - (bb) rebate of duty, on form DA 33A which must be completed in quadruplicate for each such removal
 - (cc) removal in bond to any customs and excise warehouse within the common customs area, on form SAD 500 (ZIB) which must be received at the office of the Controller within 24 hours after such removals.

- (ii) Whenever goods are removed from a customs and excise storage warehouse on issuing form DA 33A in accordance with the provisions of paragraph (i)(bb), the licensee of the warehouse must submit a summary of such removals on form SAD 500 (ZGR) for processing at the office of the Controller in respect of goods removed and delivered, together with the excise account required to be submitted in terms of rule 19A3.03(g).
- (iii) The provisions of subparagraph (ii) shall apply *mutatis mutandis* in respect of a licensed storage warehouse where spirits are denatured in terms of any item of Schedule No. 6.
- (iv) Any removal in bond or export of spirits by road is subject to the provisions of the rules for section 64D.
- (v) Subject to the provisions of any other rule regarding the carriage of goods, a copy of the relevant SAD 500, or if not processed at the office of the Controller at the time of removal, a copy of the draft SAD 500 submitted to the office of the Controller for processing must accompany the driver of the vehicle to its destination and must be produced to an officer on demand.
- (iv) Where any goods are carried by a licensed remover of goods in bond, such driver of the vehicle must in addition to any form authorising such removal, also produce the relevant road manifest to an officer on demand.
- (vii) (aa) Whenever goods referred to in these rules are removed in bond from any warehouse to any other warehouse on issuing form SAD 500 (ZIB), the licensee of the receiving warehouse must submit for processing a duly completed form SAD 500 (ZRW) to the Controller in respect of goods received within 14 days after the date of removal of those goods from the premises of the dispatching warehouse for delivery to the receiving warehouse
- (bb) The duly completed form SAD 500 (ZIB) and a copy of form SAD 500 (ZRW) may, subject to paragraph (c), rule 19A.06(e) and any other rule relating to the movement of goods, be accepted for purposes of rule 19A.09.
- (viii) (aa) Only a licensee of a VMS warehouse may export spirituous beverages manufactured in such warehouse from stocks

owned and stored by such licensee on any premises outside such warehouse.

(bb) A licensee of a VMS warehouse who so exports spirituous beverages may set off the duty paid or payable on the spirits in such beverages against duty payable on spirits as declared on a monthly account on complying with the provisions of item 621.10 of Schedule No. 6.

(e) Whenever any goods are removed to rebate users or removed in bond or exported by the licensee of a customs and excise warehouse, the licensee must include with the excise account required to be submitted in terms of these rules a statement to the effect that -

- (i) the goods removed to rebate users, removed in bond or exported as reflected in the account were duly delivered to the rebate user or the licensee of the warehouse to which the goods were removed in bond or were duly exported, as the case may be;
- (ii) a record of the proof of such delivery or export is available at the licensed premises and will be kept in accordance with the requirements of rule 19A.05.

Deductions from or set-off against monthly accounts in respect of goods subject to movement procedures

19A3.05 The provisions of rules 19A.06(e) and 19A.09 shall apply *mutatis mutandis* to any deduction or set-off from monthly accounts and such deduction or set-off may only be made on compliance with the procedures regulating the movement of the goods concerned.

TRANSITIONAL ARRANGEMENTS

Special customs and excise storage warehouses

19A3.06 (a) Every licensee of any special customs and excise storage warehouse contemplated in rule 19A3.01(b)(iii), (iv) and (v), must submit to the Controller within 14 days after the end of March, June, September and December for each quarter an account on form DA 260 in respect of goods received into, goods removed from and goods in stock, in such warehouse.

- (b) The form DA 33A referred to in rule 19A3.04, which is required to be completed by a licensee of a special customs and excise storage warehouse contemplated in rule 19A3.01(b)(v) in respect of each removal of spirits supplied under rebate of duty, shall be deemed to be an entry for home consumption for such spirits.
- (c)
 - (i) The licensee must keep a register of each form DA 33A issued and must include therein the rebate user's name and address, client number and quantity delivered.
 - (ii) A copy of the register must accompany the form SAD 500 (ZGR) contemplated in rule 19A3.04(d)(ii).
- (d) Form SAD 500 (ZGR), processed as contemplated in rule 19A3.04(d)(ii) and the duly completed declaration by the authorised person on form DA 33A acknowledging receipt on behalf of the rebate user may, subject to paragraph (e), be accepted for the purposes of rule 19A.09 in respect of goods so removed by the licensee.
- (e) Whenever any goods are removed to rebate users or removed in bond or exported by the licensee of a customs and excise warehouse, the licensee must include with the excise account required to be submitted in terms of these rules a statement to the effect that -
 - (i) the goods removed to rebate users, removed in bond or exported as reflected in the account were duly delivered to the rebate user or the licensee of the warehouse to which the goods were removed in bond or were duly exported, as the case may be;
 - (ii) a record of the proof of such delivery or export is available at the licensed premises and will be kept in accordance with the requirements of rule 19A.05.
- (f) From the quantity of unpacked spirits there may be deducted by the licensee of a -
 - (i) customs and excise warehouse receiving such spirits, 0,25 per cent as contemplated in section 75(18)(b)(i); and
 - (ii) special customs and excise storage warehouse, 0,25 per cent as contemplated in section 75(18)(b)(ii).

19A4 RULES IN RESPECT OF FUEL LEVY GOODS

Customs and excise warehouses for the manufacture and storage of fuel levy goods

- 19A4.01 (a) These rules are additional to the general rules numbered 19A.
- (b) Customs and excise warehouses for the manufacture or storage of fuel levy goods may be licensed only as a -
- (i) customs and excise manufacturing warehouse where such warehouse is a warehouse established for the purpose of manufacturing a range of products which include fuel levy goods by the conversion of crude oil, coal, gas or any other source of hydrocarbon or blending such range of products and the manufacture of biodiesel;
 - (ii) special customs and excise storage warehouse for the storage of fuel levy goods for export including for the supply as stores for foreign-going ships;
 - (iii) special customs and excise warehouse for the storage of fuel levy goods which will be marked or used as aviation kerosene as contemplated in section 37A and its rules which when so marked or so used are free of duty as specified in section A of Part 2 and Part 5 of Schedule No. 1.
- (c) Any reference in the rules to “marked goods” or “aviation kerosene” means such goods and such kerosene administered in terms of section 37A and its rules.

Clearance of fuel levy goods from a customs and excise manufacturing or special storage warehouse and payment of duty

- 19A4.02 (a) (i) Where fuel levy goods are removed from a customs and excise manufacturing warehouse for any purpose such goods must be entered for home consumption and payment of duty, and any documents approved by the Commissioner, duly completed and issued in respect of all removals from such warehouse by any means of transportation contemplated in rule 19A4.03 shall, subject to

compliance with the provisions of section 38(4), be deemed to be due entry for home consumption of such fuel levy goods.

- (ii) An excise account on form DA 160 recording all removals of fuel levy goods produced and received during the accounting month contemplated in rule 19A.06 -
 - (aa) showing the calculation of the excise duty and fuel levy and Road Accident Fund levy payable on such removals;
 - (bb) supported by its schedules;
 - (cc) together with the validating form SAD 500, must be submitted to reach the Controller within 30 days after the date or last day contemplated in rule 19A.06(b)(i) during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of SAD forms and for receipt of duties and other revenue.
- (iii) When accounting for any quantity of fuel levy goods in terms of any provision of these rules, such quantity must be expressed in litres at 20°C, utilising the IP 60 (B) measurement tables, jointly published by the Institute of Petroleum and the American Society for Testing of Materials.
- (iv) Payment of the duty calculated on form DA 160 must be submitted to reach the Controller during the hours of business prescribed in item 201.20 of the Schedule of the Rules for acceptance of bills of entry and for receipt of duties and other revenue as follows -
 - (aa) half within 30 days after such date or day, but not later than the penultimate working day of the month following such date or day during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue;
 - (bb) half within 60 days after such date or day, but not later than the penultimate working day of the second month following such date or day during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
- (v) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the hours of business referred to in subparagraph (iv).

- (b) (i) For the purposes of section 19A(1)(a)(ii), fuel levy goods stored in a special customs and excise storage warehouse for the purposes contemplated in rule 19A4.01(b)(ii) may not be removed from such warehouse for home consumption and payment of duty, except if the Commissioner, on good cause shown, and subject to such conditions as the Commissioner may impose in each case, permits such removal.
- (ii) (aa) No unmarked goods not for use as aviation fuel may be removed from any warehouse contemplated in rule 19A4.01(b)(iii) for home consumption and payment of duty, except with the permission of the Controller;
- (bb) Any goods in such warehouse shall in addition to section 37A and its rules be subject to the provisions of rule 19A4.09
- (iii) The licensee must submit accounts quarterly on form DA 159 as required in terms of rule 19A.06(f).

Record of method of transportation in respect of fuel levy goods removed for home consumption from a customs and excise manufacturing warehouse

- 19A4.03 (a) Any licensee who removes fuel levy goods for home consumption must keep a separate record for each of the different modes of transportation as follows –
- (i) road;
 - (ii) rail;
 - (iii) sea;
 - (iv) air;
 - (v) pipeline (Petronet);
 - (vi) pipeline to local storage;
 - (vii) any other mode of transportation or delivery (if any) fully detailed.
- (b) Such record shall contain the particulars required in respect of the invoice referred to in rule 19A.04.

Procedures relating to goods removed from a customs and excise warehouse

- 19A4.04 (a) (i) Any fuel levy goods removed for any purpose by the licensee of a customs and excise warehouse must be removed from stocks which have been entered or are deemed to have been entered for home

consumption in accordance with the provisions of these rules, hereafter referred to as “duty paid stock”.

- (ii) Where fuel levy goods are removed for any purpose specified in these rules requiring compliance with a customs and excise procedure either in respect of the removal, movement or receipt thereof, such goods may only be so removed from a storage tank owned by or under the control of a licensee of a customs and excise manufacturing or special customs and excise storage warehouse.
- (iii) Only a licensee of such manufacturing warehouse or the special customs and excise storage warehouse contemplated in rule 19A4.01(b)(ii) or a licensed distributor as contemplated in section 64F may export fuel levy goods.
- (iv) Only a licensee of such manufacturing warehouse or a licensed distributor as contemplated in section 64F may remove fuel levy goods to any BLNS country.
- (v) When any fuel levy goods are transported by road for -
 - (aa) export;
 - (bb) removal to a BLNS country;
 - (cc) removal to another customs and excise manufacturing warehouse or to a special customs and excise storage warehouse;
 - (dd) removal to a rail tanker, a ship or an aircraft for onward removal for exportsuch removal shall only be by a licensed remover of goods in bond as contemplated in section 64D unless the goods are carried by the licensee or licensed distributor using own transport.
- (vi) No such goods may be removed from one licensed special customs and excise storage warehouse to another such warehouse
- (vii) Fuel levy goods removed -
 - (aa) from one customs and excise manufacturing warehouse to another shall be subject to the procedures prescribed in rule 19A4.06.
 - (bb) by a licensed distributor shall be subject to section 64F and the rules therefore.
- (viii) Every consignor must ensure that sufficient copies of SAD forms are processed at the office of the Controller for the completion in respect

of the movement of the goods concerned as prescribed in these rules and in such forms.

- (ix) (aa) The particulars to be declared and the statements to be furnished on any form must be in accordance with the requirements contained in such form or as specified in these rules.
(bb) Where a rule requires a form to be duly completed the front and reverse thereof must, where relevant, be so completed.
- (x) Any reference in these rules to “consignor” means according to the context any licensee as defined in rule 19A.01 or any licensed distributor contemplated in section 64F or any licensed clearing agent of such licensee or licensed distributor who consigns fuel levy goods in accordance with procedures described in these rules to a licensee in the Republic or any consignee at a destination outside the Republic.
- (xi) (aa) (A) Every consignor who consigns any goods to any destination; or
(B) any person to whom the goods are consigned who acknowledges receipt of any goods at any destination in the Republic, and who is required to complete and sign any statement or declaration on such documents in respect of such goods shall expressly authorise the person who may sign any statement or declaration,
(bb) any driver of a vehicle of a licensed remover of goods in bond shall be deemed to be authorised to sign the documents concerned.
- (xii) Any consignor must, in addition to any document that may be prescribed in these rules for acquittal purposes, keep a record of all documents relating to the customs and excise procedure and the movement of the goods consigned, including where relevant -
 - (aa) a contract of carriage;
 - (bb) proof of receipt by a consignee at a destination inside or outside the Republic; and
 - (cc) proof of invoicing of and of receipt of payment for the goods, and for agency or other services.

- (b) (i) (aa) When fuel levy goods are exported, including supply as stores for foreign going ships, entry must be made thereof on form SAD 500 at the office of the Controller before loading.
- (bb) In the case of a removal by a licensed distributor each such form shall bear the invoice number of the licensee of the manufacturing warehouse from whom the goods are obtained.
- (cc) Where a discrepancy occurs between the quantity loaded and actually exported, the form SAD 500 must be amended by voucher of correction.

Exports by road

- (ii) Where fuel levy goods are exported by road the following procedures apply:
 - (aa) Forms SAD 500 and SAD 502 must be completed at the place of departure and processed at the office of the Controller before loading.
 - (bb) All copies of forms SAD 500 and SAD 502 required for production or retention of proof of export must accompany the driver of the vehicle.
 - (cc) The relevant boxes on form SAD 502 must be completed by –
 - (A) the consignor and the driver on departure of the vehicle, recording the actual quantity loaded and sealed;
 - (B) the driver and any other person required to complete a declaration during the movement of the goods.
 - (dd) Where the fuel levy goods are exported through a BLNS country the driver must report with the copies of forms SAD 500 and SAD 502 containing the endorsements obtained in the Republic to the customs officer –
 - (A) in the BLNS country at the point of entry when removed to the BLNS country which is the final country of destination, or which is a transit country to a final destination country outside the common customs area; and
 - (B) in the BLNS country at the point of exit when that BLNS country is a transit country to a final destination country outside the common customs area; and

- (C) in the first country outside the common customs area at the point of entry only where that country is the final destination country or is a transit country to any other country outside the common customs area, to obtain the endorsement on form SAD 502.
- (ee) Copies of forms SAD 500 and SAD 502 duly completed must be retained by –
 - (A) the consignor;
 - (B) the customs border post of exit in the Republic; and
 - (C) if applicable, the licensed remover of goods in bond.
- (ff) Duly completed copies of forms SAD 500 and SAD 502 in respect of the goods so exported must accompany –
 - (A) the monthly account of the licensee in support of set-off of duty against the amount due and payable on that account; or
 - (B) an application for a refund of duty by the licensed distributor.

Exports by rail

- (iii) Where fuel levy goods are exported by rail the following procedures apply:
 - (aa) Forms SAD 500 and SAD 505 must be completed at the place of departure and processed at the office of the Controller before loading.
 - (bb) After being processed, all copies forms SAD 500 and SAD 505 required for this procedure must be presented with a provisional Rail Consignment Note to Spoornet.
 - (cc) The relevant declaration on all copies of forms SAD 500 and SAD 505 must be completed by the consignor and Spoornet after loading of the rail tanker, recording the actual quantity loaded and sealed. Copies of SAD 500 and SAD 505 forms must be retained by –
 - (A) the consignor; and
 - (B) Spoornet.

- (dd) Duly completed copies of forms SAD 500 and SAD 505 supported by the final Rail Consignment Note in respect of the goods so exported must accompany –
- (A) the monthly account of the licensee in support of set off of duty against the amount due and payable on that account; or
 - (B) an application for a refund of duty by the licensed distributor.

Exports by ship

- (iv) Where fuel levy goods are exported by ship (including stores for foreign-going ships) the following procedures apply:
 - (aa) A provisional shipping order must be submitted to the Controller at least 24 hours before loading commences.
 - (bb) A form SAD 500 must be completed at the place of departure and processed at the office of the Controller before loading.
 - (cc) A duly completed copy of form SAD 500 amended by voucher of correction where necessary, supported by the export bill of lading in respect of the goods so exported must accompany –
 - (A) the monthly account of the licensee in support of set off of duty against the amount due and payable on that account; or
 - (B) an application for a refund of duty by the licensed distributor.

Exports by air

- (v) Where fuel levy goods are exported by air the following procedures apply:
 - (aa) A form SAD 500 must be completed at the place of departure and processed at the office of the Controller before loading.
 - (bb) The SAD 505 must be completed by the consignor and the air carrier after loading of the aircraft, recording the actual quantity loaded and sealed. One copy of the SAD 500 and SAD 505 forms must be retained by -
 - (A) the consignor; and
 - (B) the air carrier.
 - (cc) A duly completed copy of forms SAD 500 and SAD 505 supported by the air waybill in respect of the goods so exported must accompany –
 - (A) the monthly account of the licensee in support of set off of duty against the amount due and payable on that account; or
 - (B) an application for a refund of duty by the licensed distributor.

Removals of fuel levy goods to a BLNS country

- (c) (i) Subject to subparagraph (ii), the export procedure prescribed in paragraph (b) shall apply *mutatis mutandis* to removals of fuel levy goods to a BLNS country.
- (ii) For the purposes of subparagraph (i) where fuel levy goods are removed by road endorsement by a customs officer on form SAD 502 must be obtained at the point of exit from the Republic and that form must accompany the monthly account of the licensee or the claim for refund by the licensed distributor as contemplated in paragraph (b)(ii)(ff.)

Removals by road to a BLNS country

- (ii) Where fuel levy goods are removed by road to a BLNS country the following procedures apply:
 - (aa) All copies of forms DA 35 required for production or retention of proof of removal to a BLNS country must accompany the driver of the vehicle.
 - (bb) All copies of the said forms DA 35 must be completed and signed by the consignor and the driver on departure of the vehicle, recording the actual quantity loaded and sealed. A copy of one of the DA 35 forms must be retained by –
 - (A) the consignor;
 - (B) the customs border post of exit in the Republic; and
 - (C) if applicable, the licensed remover of goods in bond.
 - (cc) A duly completed copy of form DA 35 in respect of the goods so removed must –
 - (A) be recorded by such licensee in the register and summarised as contemplated in paragraphs (e) and (f);
 - (B) be kept available for inspection by the licensee of the customs and excise manufacturing warehouse together with the other documents contemplated in paragraph (a)(xii);
 - (C) accompany an application for a refund of duty by the licensed distributor.

Removals by rail to a BLNS country

- (iii) Where fuel levy goods are removed by rail to a BLNS country the following procedures apply:
 - (aa) A form DA 35 must be completed at the place of departure before loading.
 - (bb) All copies of the form DA 35 required for this procedure must be presented with a provisional Rail Consignment Note to Spoornet.
 - (cc) The relevant declaration on the reverse of all copies of the form DA 35 must be completed by the consignor and Spoornet after loading of the rail tanker, recording the actual quantity loaded and sealed. One copy of the DA 35 forms must be retained by –
 - (A) the consignor; and
 - (B) Spoornet.
 - (dd) A duly completed copy of form DA 35 supported by the final Rail Consignment note in respect of the goods so removed to a BLNS country must be dealt with as contemplated in paragraph (c)(ii)(cc).

Removal of fuel levy goods to a special customs and excise storage warehouse

- (d) (i) Whenever fuel levy goods are removed from a manufacturing warehouse for delivery to a special storage warehouse, the licensee of the manufacturing warehouse must submit for processing forms SAD 500 (ZMS) and SAD 505 before removal and the licensee of the special storage warehouse must submit a form SAD 500 (ZMR) for the quantity received on such delivery within 10 official working days after the date of receipt.
- (ii) The licensee of the special storage warehouse must—
 - (aa) furnish a copy of the processed form SAD 500 to the licensee of the manufacturing warehouse who must submit that copy in support of the monthly account for purposes of set-off of duty against the amount due and payable on that account;
 - (bb) submit quarterly accounts of goods received into, removed from and goods in stock in such warehouse.

Removals by ship to a BLNS country

- (ii) Where fuel levy goods are removed by ship to a BLNS country the following procedures apply:
 - (aa) A provisional shipping order must be submitted to the Controller at least 24 hours before loading commences.
 - (bb) Forms SAD 500 (ZRS) and SAD 505 must be completed at the place of departure and processed at the office of the Controller before loading.
 - (cc) Duly completed copies of forms SAD 500 (ZRS) and SAD 505 supported by the bill of lading in respect of the goods so removed must accompany -
 - (A) the monthly account of the licensee in support of set off of duty against the amount due and payable on that account; or
 - (B) an application for a refund of duty by the licensed distributor.

Removals by air to a BLNS country

- (iii) Where fuel levy goods are removed by air to a BLNS country the following procedures apply:
 - (aa) Forms SAD 500 (ZRA) and SAD 505 must be completed at the place of departure and processed at the office of the Controller before loading.
 - (bb) The relevant declaration on all copies of the form SAD 505 must be completed by the consignor and the air carrier after loading of the aircraft, recording the actual quantity loaded and sealed. One copy of the SAD 500 and SAD 505 forms must be retained by -
 - (A) the consignor; and
 - (B) the air carrier.
 - (cc) Duly completed copies of forms SAD 500 and SAD 505 supported by the air waybill in respect of the goods so removed must accompany -

- (A) the monthly account of the licensee in support of set off of duty against the amount due and payable on that account; or
- (B) an application for a refund of duty by the licensed distributor.

Other provisions

- (e) Where any person is unable to produce any document containing any statement or declaration required in terms of these rules, such person must, for the purposes of acquittal contemplated in these rules—
 - (i) furnish an affidavit regarding the circumstances in which the document was lost and declare therein that the goods were duly delivered at the destination stated in the prescribed bill of entry or other document under cover of which the goods were removed; and
 - (ii) produce any supporting documentary evidence as may be required by the Commissioner relating to the removal and delivery of the goods concerned.
- (f) Whenever any fuel levy goods are removed to BLNS countries or exported by the licensee of a customs and excise warehouse, the said licensee must include with the excise account required to be submitted in terms of these rules, a statement to the effect that—
 - (i) the goods removed to BLNS countries or exported as reflected in the said account were duly removed to the consignee in the BLNS countries or were duly exported, as the case may be;
 - (ii) a record of the proof of such removal or export is available at the licensed premises and will be kept in accordance with the requirements of rule 19A.05.
- (g) The provisions of rule 19A.06 (e) shall apply *mutatis mutandis* to any goods removed or exported as contemplated in this rule.

Set-off of duty on fuel levy goods exported or removed to a storage warehouse contemplated in rule 19A4.01 or to a BLNS country in the common customs area

- 19A4.05 (a) (i) The excise duty and fuel levy on fuel levy goods exported or removed from duty paid stock to a storage warehouse contemplated in rule 19A4.01(b)(ii) by a licensee of a customs and excise manufacturing warehouse; or
- (ii) the fuel levy on fuel levy goods removed by such licensee for consumption in any BLNS country may, subject to compliance with the requirements prescribed in the relevant item of Schedule No. 6 and these rules, be set off against any amount payable during any accounting month, where the goods concerned have been duly exported or duly delivered into such storage warehouse or to the consignee in such BLNS country, as the case may be.
- (b) The provisions of paragraph (a)(i) shall apply *mutatis mutandis* to such exports by a licensee of a customs and excise storage warehouse contemplated in rule 19A4.01(b)(ii).
- (c) Where a licensee of a manufacturing warehouse obtains fuel levy goods from another licensee of a manufacturing warehouse for export or for removal to a BLNS country, the licensee who so obtains such goods may set off any excise duty or fuel levy, as the case may be against the monthly account subject to compliance with the requirements prescribed in the relevant item in Schedule No. 6 and these rules.
- (d) The provisions of rules 19A.06(e) shall apply *mutatis mutandis* to any set-off as contemplated in this rule.

Removal of fuel levy goods from one customs and excise manufacturing warehouse to another customs and excise manufacturing warehouse

- 19A4.06 (a) Any fuel levy goods removed from one customs and excise manufacturing warehouse to another customs and excise manufacturing warehouse shall be supplied from duty paid stock.

- (b) (i) Any fuel levy goods so removed may, when removed by pipeline, be removed on issuing of, and receipt may be acknowledged by means of, an electronically generated document approved by the Controller for the licensees concerned;
- (ii) (aa) Such removals and receipts must be summarised monthly and entered on form SAD 500 (ZMS) by the supplying warehouse and form SAD 500 (ZMR) by the receiving warehouse.
- (bb) Such forms must be summarised monthly until the date of closing of accounts and must be processed by the office of the controller concerned.
- (iii) Where fuel levy goods are so removed by ship, entry must be made within 72 hours after such removal by the licensee removing the goods on form SAD 500 (ZMS) and on delivery thereof by the licensee receiving the goods on form SAD 500 (ZMR).
- (iv) The deduction allowed in terms of section 75(18)(e) is only deductible in respect of removals from the customs and excise manufacturing warehouse from which the fuel levy goods are removed as provided in this rule.
- (aa) The provisions of rules 19A.06(e) shall apply *mutatis mutandis* to any setoff as contemplated in this rule.
- (bb) Any set-off in terms of this rule shall be subject to the provisions of the relevant item of Schedule No. 6 and these rules.

Removal of fuel levy goods for own use

- 19A4.07 (a) Any licensee of a customs and excise manufacturing warehouse that requires fuel levy goods for own use shall remove such goods from duty paid stocks.

Fuel levy goods returned to the Republic from a BLNS country

19A4.08 (a) Whenever fuel levy goods removed to any BLNS country are returned to the Republic by road the quantity of the fuel levy goods returned shall be measured by calculating the difference between the quantity removed, as reflected on the SAD 500 form, and the sum of the quantities delivered as per delivery notes.

(b)(i) An officer shall seal the tank and endorse the form SAD 500 as follows:

I.....(name of officer) have verified the contents of the tanker(s) and found them to contain(litres) said to be the fuel entered on this form. New seal(s) number(s)/..... has/have been affixed to the tanker(s).

Signature..... Date Stamp.....”

(ii) The seal may only be removed under customs supervision at the place of unloading.

(iii) The officer must submit copies of the form SAD 500 and SAD 502 and a report to the section concerned in Head Office.

(iv) The licensee or licensed distributor must respectively-

(aa) amend the form SAD 500 by reducing the quantity in respect of the returns; and

(bb) deduct any such returns from any set-off amount or refund of duty.

(c) Paragraph (b)(iv) shall apply *mutatis mutandis* to fuel levy goods returned by rail, ship or air”.

Removal of fuel levy goods from a customs and excise manufacturing warehouse to a customs and excise storage warehouse for marking or use as aviation kerosene as contemplated in section 37A and its rules

19A4.09 (a) The provisions of these rules relating to the removal of fuel levy goods from a customs and excise manufacturing warehouse to another such warehouse or to a storage warehouse contemplated in rule 19A4.01(b)(ii) shall apply *mutatis mutandis* to the removal of fuel levy goods to the storage warehouse contemplated in rule 19A.01(b)(iii).

- (b) The provisions of rule 19A4.05 relating to set-off shall apply *mutatis mutandis* in respect of the customs and excise manufacturing warehouse from which the goods are removed to such storage warehouse.
- (c) The marking of goods in such warehouse and the removal of marked goods or aviation kerosene there from shall be subject to section 37A and its rules.
- (d)
 - (i) Fuel levy goods may not be removed from such storage warehouse for home consumption and payment of duty except where approve by the Controller as contemplated in rule 19A4.02(b)(ii).
 - (ii) The provisions relating to the submission of accounts specified in rule 19A.06 shall apply *mutatis mutandis* to such storage warehouse.
 - (iii) Payment of any duty on goods so removed must be submitted together with such quarterly account.
- (e) Liability for duty of the licensee shall cease where –
 - (i) the goods concerned have been duly marked and removed from such warehouse in terms of the provisions of section 37A and its rules;
 - (ii) the aviation kerosene removed from such warehouse has been duly received in a dedicated tank situated at an airport or has been otherwise dealt with as prescribed in section 37A and its rules; and
 - (iii) the duty on any deficiency or goods removed for home consumption and payment of duty has been brought to account as contemplated in paragraph (d).

RULES FOR SECTION 20 OF THE ACT

Goods deposited or to be deposited in a customs and excise warehouse

20.01 Subject to the provisions of rule 20.02, goods which have been entered for warehousing in or for removal to a customs and excise warehouse shall be conveyed to the warehouse immediately after such entry and be deposited therein. Any person who enters goods for warehousing shall deliver to the licensee of the receiving warehouse a copy of the relevant bill of entry as soon as reasonably possible but not later than the time when the goods are received in such warehouse.

20.02 Imported packages which have been entered for warehousing in a customs and excise warehouse but which are leaking, or of which the whole or part of the contents is missing, or which are in an otherwise damaged condition, shall not be removed to the warehouse unless examined in terms of rule 44.02. If such package is removed to the warehouse without such examination the full invoiced contents of such package shall be deemed to have been imported and shall be accounted for under the provisions of the Act.

20.03 (a) Any person entering any imported goods for warehousing shall –

- (i) obtain prior written approval from the licensee of the customs and excise warehouse to store the goods in the warehouse
- (ii) keep such written approval and produce it to the Controller upon request.

(b) The licensee of any customs and excise warehouse shall notify in writing the owner of any imported goods entered for warehousing in such warehouse and the Controller of the non-receipt of any such goods, or any part thereof, and the owner of such goods shall take immediate steps to account to the Controller for such goods or to pay the duty due thereon.

20.04 The licensee of any customs and excise warehouse into which goods are received shall ensure that such goods have been duly entered for warehousing in such warehouse and, unless proof that such goods have been so entered is in his possession at the time of receipt of such goods, he shall keep such goods separated from other goods in such warehouse and make a written report to the Controller forthwith.

20.05 The licensee of a customs and excise warehouse which has been approved for a particular class of goods shall not allow any other goods to be deposited therein, without the prior approval of the Controller.

20.06 All goods in a customs and excise warehouse shall be arranged and marked in such a manner that it will be easily identifiable and accessible for inspection and that each consignment and the particulars thereof can readily be ascertained and checked.

20.07 Goods deposited in a customs and excise warehouse may at any time be examined by the Controller and the licensee of such warehouse, or his representative, shall be present during such examination and assist the Controller in the execution of such examination.

20.08 Goods deposited in a customs and excise warehouse in closed trade containers shall not be examined, nor the packages opened or altered in any way, except with the permission of the Controller and in the presence of an officer if he so requires, unless immediate action for the safety of the goods is necessary, in which case the licensee shall immediately notify the Controller.

20.09 No unpacked goods in liquid form shall be stored in ungauged containers in a customs and excise warehouse without the written permission of the Controller.

General provisions regarding clearance and removal of goods from customs and excise warehouses and payment of duty.

20.10 Except as the Controller may permit the licensee of a customs and excise warehouse shall not cause or permit any goods to be delivered or removed from such warehouse until he is in possession of a relative ex warehouse bill of entry, in the prescribed form, numbered and date-stamped by the Controller.

20.11 Notwithstanding the provisions of rule 20.10 the Controller may permit the licensee of any customs and excise warehouse to remove from such warehouse goods which are liable to excise duty or such other goods as may be specified in these rules provided –

- (a) in the case of wine and other fermented beverages, excluding beer, a certificate for removal of excisable goods ex warehouse (form DA 32), duly completed by the licensee of such warehouse, is deposited by such licensee in the entry box referred to in rule 20.12;
- (b) in the case of excisable goods of Section B of Part 2 of Schedule No. 1 manufactured in the Republic an invoice prescribed in terms of rules 20.18 and 36.04 is completed; and

- (c) he undertakes to comply with the provisions of rules 20.13, 20.14, 20.15 and 20.17.

20.12 Any licensee of a customs and excise warehouse referred to in rule 20.11 shall provide and fix to any convenient and permanent structure in an accessible place in such warehouse a box (to be known as an entry box) of a construction and design approved by the Controller, for safe depositing of documents. The box in question shall be provided with fittings and shall be designed to enable the Controller to lock it with a State padlock so that documents deposited therein cannot be withdrawn and so that at any time considered necessary by the Controller documents can be neither deposited nor withdrawn.

20.13 In the case of excisable goods other than goods referred to in the rules numbered 19A to be removed from any customs and excise warehouse for home consumption under Schedule No. 6 the licensee of such warehouse shall, notwithstanding the provisions of rule 20.11, not remove or permit such goods to be removed from such warehouse unless a declaration regarding restricted removal of excisable goods ex warehouse (form DA 33) has been completed and signed by the manufacturer under Schedule No. 6 and a copy of such declaration has been attached to each copy of the certificate for removal of excisable goods ex warehouse (form DA 32). In the case of goods to be so removed for consumption under Schedule No. 6 it may be required that the said declaration shall be approved by the Controller in the area where the manufacturer's premises are situated before such goods are removed.

- 20.14 (a) For the purposes of sections 38(4) and 39(2A), excise duty accounts in respect of excise duty goods of Section A of Part 2 of Schedule No. 1 other than goods referred to in the rules numbered 19A together with the validating bills of entry, shall be presented to the Controller by the licensee of each customs and excise warehouse in respect of all excisable/specified goods removed from such warehouse during the previous calendar month for the purposes mentioned in section 20(4), within 30 days after stocktaking or the closing of accounts for duty purposes.
- (b) Copies of all certificates deposited in the entry box shall accompany the account referred to in paragraph (a) or shall be specified on a schedule attached to such account.
- (c) Notwithstanding paragraphs (a) and (b), when a duty on any goods referred to in the said paragraph (a) is amended in a taxation proposal tabled by the Minister as

contemplated in section 58(1), the provisions of rule 19A.08 shall apply *mutatis mutandis* to the submission of accounts in terms of this rule and the payment of duty as provided in rule 20.17 in respect of such goods.

20.15 The licensee shall number certificate consecutively in the space provided in respect of removals from each customs and excise warehouse and deposit such certificates in the entry box in his customs and excise warehouse before any goods are delivered or removed from such warehouse.

20.16 The licensee of a customs and excise warehouse shall cause any goods which have been entered or in respect of which he has deposited a certificate in terms of rule 20.11 in the entry box for delivery or removal from such warehouse, to be so delivered or removed within three days after the date of such entry or such certificate unless the permission of the Controller has been obtained for their retention.

20.17 (a) Every licensee referred to in rule 20.14 shall pay at the office of the Controller the duty due in respect of such removals monthly or three-monthly, as the Controller may determine, provided –

- (i) stocktaking or the closing of duty accounts takes place, by arrangement with the Controller, between the 25th day and the last day of such month or such period of three months and the date so arranged shall apply permanently in every month or period of three months except when such date falls on a Saturday, Sunday or public holiday in which case the Controller shall determine the said date, but the date of payment of duty as provided for hereafter shall not be affected thereby; and
- (ii) the duty on goods removed between the date of stocktaking or closing of duty accounts in one month or period of three months and such date in the next month or period of three months shall be paid within 30 days of the date of such stocktaking or closing of duty accounts but not later than the penultimate official working day of the month following the month or period of three months during which the date determined for stocktaking or closing of duty accounts occurs.

(b) Notwithstanding the provisions of paragraph (a) the Controller may in respect of any imported or excisable goods, in circumstances which he deems exceptional and subject to such security as he may require and to such conditions as he may impose -

- (i) determine any date for stocktaking or the closing of duty accounts; and
 - (ii) permit the payment of duty on such date as may be specified by him.
- (c) Any payment required to be made in terms of these rules shall be delivered to the Controller before 15:00 hours on the date specified by him.

20.18 The provisions of rule 36.04 shall *mutatis mutandis* apply in respect of any removal of excisable goods of Section B of Part 2 of Schedule No. 1 ex warehouse and for that purpose any reference to beer shall be deemed to be a reference to any such excisable goods.

Clearance and removal of goods from customs and excise warehouse for home consumption

20.19 Excisable goods shall not be removed from any customs and excise warehouse for payment of duty in terms of rule 20.10 or 20.11 except in such minimum quantities as the Controller may determine in respect of each excisable product or spirituous beverage.

Clearance of goods from a customs and excise warehouse for removal in bond

20.20 In addition to the rules under this heading the removal of goods in bond is subject to the provisions of section 18 and the rules pertaining to that section.

20.21 In the case of goods liable to excise duty only and removed in bond from one customs and excise warehouse to another any copy of a certificate for the removal of excisable goods ex warehouse (form DA 32) relating to the removal of such goods shall on being deposited in the entry box in such warehouse to which such goods were so removed be deemed to be a bill of entry for re-warehousing in respect of such goods in that warehouse.

20.22 In the case of excisable goods of Section B of Part 2 of Schedule No. 1 the owner may remove such goods under cover of a form DA 32 for removal in bond and for re-warehousing only. Particulars of such removals shall be indicated on a form DA 75.22.

20.23 The consignee of any goods removed in bond shall notify the Controller and the remover immediately of the non-receipt of such goods, or any part thereof, and such

remover shall take immediate steps to account to the controller for such missing goods or to pay the duty due thereon.

RULES FOR SECTION 21

The rules numbered 21.03 followed by further digits relate to goods and the activities in respect thereof contemplated in section 21(3)

Definitions

21.03.01 For the purposes of these rules and any form or other document to which these rules relate, unless otherwise specified or the context otherwise indicates -

(a) any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned, and

“activity” or **“activities”** means any activity or activities in connection with the storage or handling of goods in, or removal of goods from an export storage warehouse;

“BLNS country” means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland;

“break bulk” means goods received in the storage warehouse as separate packages;

“bulk” means a large quantity of unpacked dry or liquid homogeneous goods shipped loose in a ship or transported by a vehicle or in a container or other receptacle;

“consolidated”, **“consolidate”**, **“consolidation”** or any cognate expression relating to the packing of goods into one shipment, means goods from a consignor or several consignors that are consolidated for carriage to a consignee or several consignees by container or otherwise;

“container” means a container as defined in section 1(2);

“customs and excise laws and procedures” shall have the meaning assigned thereto in rule 59A.01(a);

“deconsolidate” includes to unpack any consolidated imported goods or to split one import shipment into various export shipments in an export storage warehouse;

“export” includes the removal of goods from a special customs and excise warehouse in the Republic to a consignee in a BLNS country and **“exporter”** has a corresponding meaning;

“import” includes the removal of goods from a BLNS country to a consignee for storage in a special customs and excise storage warehouse in the Republic and **“importer”** has a corresponding meaning;

“special export storage warehouse” means a customs and excise storage warehouse licensed for the purposes contemplated in these rules;

“the Act” includes any provision of “this Act” as defined in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

- (b) any reference in these rules to **“goods”** or **“goods free of duty”** shall, unless otherwise specified, be deemed to include a reference to goods liable to duty entered for storage in a special export storage warehouse.

Delegation

21.03.02 Subject to section 3(2) where -

- (a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of the Act, including these rules, is not specifically delegated; or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned,

to any Controller or officer in these rules or in any section or rule regulating any requirement in respect of goods to which section 21(3) or these rules relate, such power is delegated or such duty is assigned, as the case may be, to the person responsible in the Operations section in the Customs division of the South African Revenue Service.

Application of section 21(3) and these rules

- 21.03.03 (a) The provisions of section 21(3) and these rules apply to -
- (i) goods and activities in any special export storage warehouse where -
 - (aa) goods are directly entered on importation for storage in such warehouse;
 - (bb) goods are directly entered on importation for storage in such warehouse and stored and consolidated or deconsolidated therein for export;
 - (cc) subject to paragraph (d), activities as contemplated in section 25, are undertaken by the licensee, accredited importer, exporter or clearing agent or any other person;
 - (ii) any fish landed from a foreign fishing vessel and delivered to a special export storage warehouse as contemplated in rule 11.03.
- (b) Provided section 21(3) and these rules are complied with, dutiable goods may also be stored in a special export storage warehouse, whether or not such goods are imported in the same consignment as goods free of duty.
- (c) The provisions of section 21(3) and these rules do not apply to -
- (i) any special customs and excise warehouse operating as -
 - (aa) a duty free shop; or
 - (bb) a supplier of stores for foreign-going ships or aircraft;
 - (ii) any goods, including goods from any BLNS country, brought into the Republic for transit to a country outside the Republic.
- (d) Except with the approval and under the supervision of the licensee, no activities contemplated in these rules shall be undertaken in such warehouse by any person other than the licensee.

- (e) Subject to rule 21.03.09(c)(iv), no goods entered for warehousing in a special export storage warehouse may be entered for removal in bond to -
 - (i) any such or other customs and excise storage warehouse; or
 - (ii) any consignee in a BLNS country, except to a licensee of a customs and excise warehouse.

Entry of goods for storage and export

- 21.03.04 (a) (i) Any goods intended for storage in a special export storage warehouse, must be entered on a form SAD 500, purpose code WE.
- (ii) Goods so entered and received in such warehouse are subject to compliance with section 21(3) and these rules and, except on good cause shown, the relevant SAD 500 may not be substituted or cancelled for placing the goods under any other customs procedure.
- (b) (i) Where any entered particulars change prior to export due to repacking, consolidation or deconsolidation or for any other reason the relevant SAD 500 must be amended by a voucher of correction to reflect such change.
- (ii) Where goods are repacked or consolidated, the voucher of correction must reflect the countable quantities in which the goods are so repacked or consolidated.
- (iii) The goods concerned may not be exported unless the voucher of correction has been processed at the office of the Controller.
- (c) Goods imported into the Republic from a BLNS country or goods imported from outside the common customs area whether or not through a BLNS country that are destined for storage in a special customs and excise storage warehouse shall be subject to compliance with the following procedures:
- (i) (aa) At the office of the Controller where the goods enter the Republic -
- (A) a form SAD 500, purpose code IM5 and a form SAD 502 for goods imported from a BLNS country;

- (B) a form SAD 500, purpose code RIB and a form SAD 502 or a form SAD 500 WE and a form SAD 505 for goods imported from outside the common customs area,
must, notwithstanding that a SAD form may have been processed in a BLNS country, be processed for removal in bond of the goods to such warehouse;
 - (bb) security, as the Controller may require, for any duty or value-added tax in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991) leviable on such goods must be furnished by the person entering the goods for removal in bond;
 - (ii) (aa) form SAD 500, purpose code WE and a form SAD 505 must be processed for the purpose of storage of the goods in the special customs and excise storage warehouse at the office of the Controller where the warehouse is situated;
 - (bb) a duly processed form SAD 500 and acknowledgement by the licensee may be accepted by the Controller where security is furnished as proof that the obligations under the removal procedure have been fulfilled.
- (d) Goods removed for export to –
- (i) a BLNS country, must be declared on a form SAD 500, purpose code XIB if dutiable goods and if non-dutiable goods, be declared on a form SAD 500, purpose code XE and a form SAD 502.;
 - (ii) a destination outside the common customs area whether or not carried through a BLNS country, must be declared on form SAD 500, purpose code XE and a form SAD 502.

Payment of duty and VAT on samples

21.03.05 Where any samples are taken as contemplated in rule 21.03.03(a)(i)(cc)(B), the duty and value added tax (VAT) payable thereon must be paid to the Controller before removal from such warehouse.

Storage and handling of goods

- 21.03.06 (a) Unless otherwise specified in section 21 and these rules, the provisions of the Act relating to the storage of goods in a customs and excise storage warehouse shall apply to goods stored in a special export storage warehouse.
- (b) (i) Any waste or scrap caused by sorting, grading or repacking or other process must -
- (aa) be destroyed under supervision of an officer monthly or at such intervals as the Controller may determine; or
- (bb) be entered for home consumption; and
- (ii) the quantity destroyed or entered for home consumption deducted from the quantity entered for storage.
- (c) Goods removed from such warehouse for export, if wholly or partly transported by road, must, except if exempted by rule be carried by a licensed remover of goods in bond contemplated in section 64D.

Keeping of books accounts and documents

- 21.03.07 (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must -
- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
- (ii) include in such books, accounts, documents and any data any requirements prescribed in any provision of the Act in respect of a storage warehouse for imported goods;
- (ii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.
- (b) Such books, accounts, documents and data must include -
- (i) Where applicable -

- (aa) proper accounting reports of each type of goods received, stored, the operations carried out in respect thereof, the quantity of waste or scrap and the quantity of goods removed for export;
 - (bb) copies of invoices, dispatch delivery notes, bills of entry, transport documents, orders, payments received and made, and such other documents relating to the export of the goods of which particulars must be inserted on the bill of entry export as contemplated in rule 38.15;
 - (cc) copies of the contract of carriage entered into between the licensee and the licensed remover of goods in bond and delivery instructions issued to such remover in respect of each consignment;
 - (dd) a monthly reconciliation of all movements of goods into and out of such warehouse and operations carried out in respect thereof as contemplated in paragraph (aa);
- (c) The requirements specified in paragraphs (a) and (b) shall apply *mutatis mutandis*, as may be applicable in each case, to any importer, exporter, clearing agent or other person who partakes in any activity contemplated in these rules.

Licensing of a special customs and excise export storage warehouse

- 21.03.08 Any person or any licensee of any special customs and excise storage warehouse who intends operating an export storage warehouse must apply for a licence on form DA 185 and the appropriate annexure.

Special provisions relating to the handling and storage in a special export storage warehouse of fish landed from a foreign fishing vessel

- 21.03.09 *Definitions and application*
- (a) For the purpose of any activity relating to fish landed from a foreign fishing vessel and received in an export storage warehouse, unless the context otherwise indicates -

“**fish**” includes crustaceans, molluscs and other aquatic invertebrates classifiable in any item of Chapter 3 of Part 1 of Schedule No. 1;

“**fishing vessel**” includes a factory ship for processing fish;

“**foreign fishing vessel**” means a fishing vessel not registered in a Member State of SACU;

“**sort**” or “**sorting**” includes any activity -

- (i) to determine the mass, species and quantity;
- (ii) relating to the loading of such fish in a pallet and numbering of such pallet for tracking and identification purposes.

Activities in a special export storage warehouse

- (b) (i) The licensee of the export storage warehouse shall be -
 - (aa) liable for the duty on all fish received as contemplated in rule 11.03; and
 - (bb) be responsible for all activities in connection with the fish while stored in such warehouse.
- (ii) Within three days after receipt of the fish the licensee must -
 - (aa) complete sorting;
 - (bb) record full particulars of the fish determined on sorting in account DA 1B; and
 - (cc) furnish copies of such account –
 - (A) to the master or master’s agent; and
 - (B) together with the copy of form DA 1A on which receipt of the fish is acknowledged, as required by rule 11.03, to the Controller.

Entry

- (c) Within 14 days after furnishing of the account (DA 1B) contemplated in paragraph (b)(ii)(bb) the fish must be duly entered, as may be applicable, on form SAD 500 for -
 - (i) storage for export;
 - (ii) home consumption;
 - (iii) removal in transit to a destination within or outside the common customs area; or

- (iv) removal in bond to any other special export storage warehouse.

Defective, restricted or prohibited fish

- (d) (i) Any fish which are defective, or which are restricted or prohibited in terms of any law must be placed in a separate secure area of the export storage warehouse.
- (ii) Such fish must be destroyed in terms of the provisions of the Act, or exported on arrangement with and subject to such procedures as determined by the Controller.

Payment or deficiencies

- (e) There must be paid on demand to the Controller any duty and value-added tax due in terms of the Value Added Tax Act, 89 of 1991 -
 - (aa) by the master or the master's agent on any deficiency between landed quantities and quantities received in the special export storage warehouse;
 - (bb) by the licensee of the special export storage warehouse on any deficiency between quantities received and stored.

Implementation arrangements

- 21.03.10 After a period of 60 days from the date these rules are published, no person shall be allowed to deal with any goods as contemplated in these rules except in a special export storage warehouse.

- 21.04 For the purposes of section 21(1) and (2) the rules numbered 21.04 followed by further digits relate to special customs and excise storage warehouses licensed as duty and tax free shops**

Definitions

- 21.04.01** For the purposes of these rules and any form to which these rules relate, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and unless otherwise specified or the context otherwise indicates -

“activity” or “activities” means any activity or activities in connection with the storage, put up for retail, display, selling or other handling of goods in, or removal of goods from a duty and tax free shop;

“airport” means an international customs and excise airport listed as a warehousing place in item 200.02 of the Schedule to the Rules and approved by the Commissioner as a place where special customs and excise warehouses operating as inbound and outbound duty and tax free shops may be established;

“bonded goods” means any dutiable locally-produced goods or any imported goods, whether liable to duty or free of duty, that are entered for storage in accordance with the provisions of the Act for storage and stored for sale in a duty and tax free shop;

“duty and tax free”, in relation to a duty and tax free shop, means goods are sold at a price that does not include any duty leviable in terms of the Act or any value-added tax leviable in terms of the Value-added Tax Act, 1991 (Act No. 89 of 1991);

“duty and tax free shop” means a special customs and excise storage warehouse licensed for the purposes contemplated in these rules;

“goods in free circulation” means goods which are not subject to any customs or excise procedure contemplated in the Act and includes goods on which VAT has been paid or exempted;

“inbound duty and tax free shop” means a duty and tax free shop located before the customs control point for inbound travellers;

“inbound traveller” means a person, including a crew member of the aircraft, who arrives in the Republic on an international flight from a place in a country inside or outside the common customs area;

“international flight” means a flight by an aircraft departing from or to a place in a country inside or outside the common customs area;

“licensee” means the licensee of a licensed special customs and excise storage warehouse contemplated in these rules;

“outbound duty and tax free shop” means a duty and tax free shop located after the customs control point for outbound travellers;

“outbound traveller” means a person, including a crew member of the aircraft, who is about to depart from the Republic on an international flight to a place in a country outside the common customs area;

“purchase” in relation to an inbound or outbound traveller, includes obtaining any goods supplied in a duty and tax free shop without payment;

“sell” or any of its grammatical variations means the supply by the licensee of any goods contemplated in these rules to an inbound or outbound traveller and includes supplying such goods without payment;

“the Act” includes any provisions of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“VAT” means value-added tax leviable in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

“VAT Act” means the Value-Added Tax Act, 1991.

Application of provisions

- 21.04.02** (a) The provisions of these rules apply to imported goods and dutiable locally-produced goods, and where specified, goods in free circulation, stored, put up for retail and sold in a duty and tax free shop.
- (b) Except as otherwise provided in the Act and these rules –
- (i) any provision of the Act relating to –
 - (aa) a special customs and excise storage warehouse, the activities in such a warehouse including removal of goods from such warehouse, removal in bond, export, entry under rebate of duty, liability for duty, payment of duty, the responsibility of

- the licensee and any other requirement prescribed in connection with any such warehouse;
 - (bb) the importation of goods and imported goods;
 - (cc) the exportation of goods; and
 - (ii) sections 59A, 60, 64E and 101 and the rules made thereunder, including the definitions in such rules,
- shall, as may be applicable, apply *mutatis mutandis* to any goods and any activities in a duty and tax free shop.

Application for and refusal, suspension or cancellation of a licence

- 21.04.03** (a) Any person who intends operating a duty and tax free shop must –
- (i) apply for a special customs and excise storage warehouse license on form DA 185 and the appropriate annexure thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner.
 - (ii) (aa) before a licence is issued, furnish the security the Commissioner may require;
 - (bb) if security is furnished in the form of a bond, such bond –
 - (A) is subject to the provisions of rules 120.08 and 120.09; and
 - (B) must be in the form determined by the Commissioner.
- (b) The provisions of section 60(2) and the rules for section 60 shall apply with the necessary changes to any refusal of an application for a licence or the renewal, cancellation or suspension of the licence issued in respect of a duty and tax free shop.

Places where duty and tax free shops may be licensed and premises which may be included in a licence

- 21.04.04** (a) Licenses to operate duty and tax free shops shall be granted only –
- (i) in respect of inbound or outbound duty and tax free shops in the–
 - (aa) Cape Town International Airport
 - (bb) King Shaka International Airport

- (cc) Kruger Mpumalanga International Airport, and
- (dd) OR Tambo International Airport;

- (ii) in respect of an outbound duty and tax free shop at any other place than those referred to in subparagraph (i), as the Commissioner may determine,

at each place operating in a location and in premises approved by the Commissioner.

- (b) In a licence for a special customs and excise storage warehouse contemplated in these rules may be included -
 - (i) the premises where bonded goods or goods in free circulation for sale are stored; and
 - (ii) the separate premises where those goods are sold.

Storage of, and marking and ticketing, labelling or otherwise marking of, duty and tax free goods

- 21.04.05**
- (a) Bonded goods in the storage section of a duty and tax free shop must be stored separately from other goods.
 - (b) All goods displayed for sale and sold must be ticketed, labelled or otherwise marked to indicate that the selling price does not include duty and VAT is zero rated.

Prohibited or restricted goods

- 21.04.06**
- (a) Subject to paragraph (b), a duty and tax free shop may sell –
 - (i) bonded goods; and
 - (ii) goods in free circulation.
 - (b) When any goods of which the importation is restricted are sold to an inbound traveller the licensee of the duty and tax free shop must obtain the necessary certificate, permit or other document authorising the importation.

- (c) No goods of which the importation or exportation is prohibited may be sold to an inbound or outbound traveller.
- (d) Any goods for export which are subject to production of a certificate, permit or other document authorising such export, may not be sold to an outbound traveller unless the licensee of the duty free shop is in possession of such certificate, permit or other document.

Persons to whom duty and tax free shops may sell goods stored in a customs and excise storage warehouse

21.04.07 A duty and tax free shop may sell goods –

- (a) if an inbound duty and tax free shop, only to inbound travellers;
- (b) if an outbound duty or tax free shop, only to outbound travellers.

Packaging and sealing of goods purchased by inbound travellers

21.04.08 Bonded goods and goods in free circulation must, on being sold at an inbound duty and tax free shop to an inbound traveller, be packaged separately in a package that -

- (a) is transparent so that the contents can be clearly identified;
- (b) is sealed in such a manner that the goods cannot be removed without the seal being broken; and
- (c) contains the sales receipt or other sales document of which the particulars are clearly visible.

Sales in a duty and tax free shop

21.04.09 (a) The licensee of a duty and tax free shop must issue a serially numbered sales receipt or other sales document in duplicate that specify at least –

- (i) in respect of an inbound or outbound traveller -
 - (aa) the specific retail outlet;
 - (bb) the date of arrival or departure as the case may be;
 - (cc) the airport of destination if outbound or departure if inbound as the case may be;
 - (dd) the flight number; and
 - (ee) seat number;
- (ii) a precise description of the goods together with –

- (aa) the quantity;
- (bb) the sale price reflected in South African Rand; and
- (cc) the stock code.

- (b) The licensee must -
 - (i) retain the original sales receipt or other sales document for record purposes; and
 - (ii) place a copy of the sales receipt or other sales document with the goods inside the package.

21.04.10 Delivery of form SAD 500 in respect of bonded goods received in the special customs and excise warehouse that have been sold, lost, destroyed or damaged as contemplated in these rules

- (a) Under sections 20, 38, 39 and 120 and for the purposes of section 21, the licensee of a duty and tax free shop must deliver to the Controller within seven days after the last day of any period of seven days during which the shop operated, a form SAD 500 in respect of bonded goods received in the special customs and excise warehouse that have been sold as contemplated in these rules.
- (b) Separate forms SAD 500 must be delivered in respect of –
 - (i) locally produced bonded goods sold at –
 - (aa) an inbound duty and tax free shop; or
 - (bb) an outbound duty and tax free shop; or
 - (ii) imported bonded goods sold at –
 - (aa) an inbound duty and tax free shop; or
 - (bb) an outbound duty and tax free shop; or
 - (iii) goods lost, destroyed or damaged if –
 - (aa) locally produced bonded goods; or
 - (bb) imported bonded goods.
- (c) Each form SAD 500 contemplated in (b)(i) and (ii) must be supported by a list of all sales receipt or other documents; and the date of issue in respect of each period contemplated in paragraph (a).
- (d) Each form SAD 500 contemplated in paragraph (b)(iii) must be –

- (i) supported by a list reflecting the stock code number, the date and the circumstances in which the goods were lost destroyed or damaged; and
- (ii) accompanied by payment of duty and value added tax due on such goods.

Inventory control

- 21.04.11** (a) The licensee of a duty and tax free shop must establish and maintain an inventory control system approved by the Commissioner to reflect, at least-
- (i) a precise description of the goods together with a clear distinction between the types of goods;
 - (ii) the quantities of goods received in the duty and tax free shop and removed therefrom;
 - (iii) the date of receipt of the goods in the duty and tax free shop, the date of sale and the date of removal;
 - (iv) monthly and year-end balances of all unsold goods in the duty and tax free shop;
 - (v) particulars of goods lost, destroyed or damaged; and
 - (vi) any other particulars as may be specified by the Commissioner.

Keeping of books, accounts and documents

- 21.04.12** (a) For the purpose of section 101, and notwithstanding anything to the contrary in any rule contained, every licensee must –
- (i) keep proper books; accounts and documents and any data created by a computer of all transactions relating to the activities in respect of which the license is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required in respect of any customs procedure contemplated in these rules;
 - (ii) include in such books, accounts and documents and data any requirements prescribed in any provision of the Act in respect of a storage warehouse for imported or locally-produced goods; and
 - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such

particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.

- (b) Such books, accounts, documents and data must include, as applicable –
 - (i) proper accounting records of each type of goods received, stored and sold at each duty and tax free shop;
 - (ii) copies of bills of entry, invoices, orders for goods, delivery notes and payments received and made;
 - (iii) copies of forms SAD 500 and supporting documents contemplated in rule 21.04.10; and
 - (iv) any other documents the Commissioner may specify.

Transitional arrangements

- 21.04.13** (a) (i) Any person who is a licensee of a special customs and excise storage warehouse operating as a duty and tax free shop for outbound travellers at the places referred to in rule 21.04.04(a)(i) and wishes to extend the licence to include a duty and tax free shop for inbound travellers, must apply on form DA185 and the appropriate annexure for such an extension before these rules come into operation.
- (ii) If the application is approved, an endorsement to the existing licence will be issued to be effective from the date these rules come into operation.
- (iii) A licensee of a special customs and excise warehouse operating as a duty and tax free shop for outbound travellers who will continue to sell goods to outbound travellers only when these rules come into operation need not submit the form DA 185 and the existing licence will remain in force.
- (b) (i) Goods entered on a form SAD 500 with purpose code WE for storage in a special customs and excise storage warehouse operating as an outbound duty and tax free shop when these rules are published, must, if those goods or some of those goods will be sold in an inbound duty and tax free shop included in an extended licence contemplated in paragraph (a), substitute that form SAD 500

with a form SAD 500 reflecting purpose code WH in respect of any unsold goods before such goods are sold in the inbound shop.

- (ii) Any bonded goods for storage in a duty and tax free shop of which the licence is issued in respect of an inbound or inbound and outbound duty and tax free shop must be entered on a form SAD 500 reflecting the purpose code WH.
- (iii) Any bonded goods for storage in a duty and tax free shop of which the licence is issued in respect of an outbound duty and tax free shop only, must be entered on a form SAD 500 reflecting the purpose code WE.

RULES FOR SECTION 21A

Definitions

21A.01 For the purposes of these rules and any agreement, form or other document to which these rules relate, unless the context otherwise indicates -

- (a) any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned; and
- (b) **“activity”** or **“activities”** means activity or activities subject to customs control;

“CCA enterprise” means any person permanently located in a CCA and who is registered or licensed as contemplated in these rules;

“CCA VAT goods” means goods removed -

- (i) from a place in the Republic to a CCA; or
- (ii) from a CCA to a place in the Republic,

which are not subject to the application of any customs and excise laws and procedures but for purposes of these rules are subject to customs and excise control;

“customs and excise control” means measures applied to ensure compliance with customs and excise laws and procedures;

“customs and excise laws and procedures” shall have the meaning assigned thereto in rule 59A.01(a);

“customs and excise warehouse” means a licensed customs and excise manufacturing or storage warehouse;

“IDZ operator” means the holder of a valid IDZ operator permit granted by the Minister of Trade and Industry and includes personnel of the IDZ operator who are authorised by the IDZ operator to perform duties and functions specified in these rules;

“IDZ SARS office” means a South African Revenue Service Customs and Excise office located in an IDZ operating under the Controller for the area within which the IDZ is designated and which has been established by the South African Revenue Service on premises provided by an IDZ operator for the purposes of performing its functions in relation to any activity carried on in an IDZ, including a CCA established in an IDZ;

“licensed”, “licensee” or any cognate expression means any person or premises licensed in terms of any provision of the Act;

“manufacturing warehouse” means a licensed customs and excise manufacturing warehouse;

“registered” or any cognate expression means registration in terms of section 59 and its rules or any other provision of the Act;

“regulation” or **“regulations”** means a regulation or regulations or any amendment thereof enacted in terms of the Manufacturing Development Act, 1993 regulating any matter relating to an IDZ or a CCA;

“storage warehouse” means a licensed customs and excise storage warehouse;

“the Act” includes any provision of **“this Act”** as defined in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“**VAT**” means value-added tax leviable in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

“**VAT Act**” means the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

Delegation

- 21A.02 (a) Subject to section 3(2), where -
- (i) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of the Act, including these rules, is not specifically delegated; or
 - (ii) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned
- to any Controller or officer in these rules or in any section or rule regulating any requirement in respect of goods to which section 21A or these rules relate, such power is delegated or such duty is assigned, as the case may be, to the Manager: Commercial Services, in the Customs and Excise division of the South African Revenue Service.

Application of provisions in a CCA

- 21A.03 (a) The activities in a CCA are subject to the provisions of the –
- (i) Act, unless otherwise specified in any Schedule or rule; and
 - (ii) VAT Act,
- (b) For the purpose of application of any customs and excise warehouse procedure, goods -
- (i) used in the production or manufacture of any goods (other than goods liable to any excise duty, fuel levy or environmental levy), must be so produced or manufactured in accordance with the provisions of section 75, the item of the relevant Schedule and section 21A and these rules;
 - (ii) used in the production or manufacture of any goods liable to excise duty, fuel levy or environmental levy, must be removed to and so

used in a licensed customs and excise manufacturing warehouse in accordance with the provisions of the Act; or

- (iii) imported for home consumption or for export, in the same condition as imported or to undergo operations necessary for their preservation or to improve the quantity or packaging or marketable quantity or quality or to prepare them for shipment (such as break bulk, grouping of packages, sorting and grading or repacking) before clearance for home consumption or for export, must be entered for storage and stored in a licensed customs and excise warehouse.

Designation of CCA and requirements in respect of premises, equipment and security

- 21A.04
- (a) Any demarcated area shown on a plan of an IDZ as a location for establishing a CCA may be designated as a CCA by the Commissioner in concurrence with the Director-General: Department of Trade and Industry as contemplated in the definition of “CCA” in section 21A(1).
 - (b)
 - (i) An IDZ operator may apply on form DA185 and the appropriate annexures-
 - (aa) for registration; and
 - (bb) for an area to be designated as a CCA.
 - (ii) The application must be supported by the documents and must contain fully the information requested in the form and any such further particulars as the Commissioner may require in each case.
 - (iii) Pending compliance with paragraph (b) the Commissioner may, with the concurrence of the Director-General: Department of Trade and Industry, provisionally approve the designation of the CCA on such conditions and other requirements as may be specified in the provisional approval
 - (c) Any application for designation of a CCA will only be finally approved if the premises, security and equipment of the proposed CCA conform to requirements determined by the Commissioner and the Director-General: Department of Trade and Industry which may include that–
 - (i) the CCA is fenced in;

- (ii) office space and facilities are provided for South African Revenue Service customs and excise officers in the IDZ SARS office;
- (ii) the fence must be patrolled by security guards and other comprehensive security arrangements are provided.

Functions of a CCA SARS office

21A.05 The officers at the IDZ SARS office may–

- (a) control and inspect any goods brought into, produced, manufactured or otherwise dealt with in, or removed from, a CCA and any services declared or required to be declared on a VAT 267 form;
- (b) process any forms in respect thereof, except SAD forms relating to goods removed to or from a CCA; and
- (c) perform such other functions in connection with the administration of customs and excise laws and procedures in a CCA or IDZ as the Controller may direct.

Hours of attendance

21A.06 (a) The hours of attendance of–

- (i) officers at the IDZ SARS office, shall be the hours of attendance prescribed for the Controller's office or if any service is required at any time by the IDZ operator, a CCA enterprise or a customs or excise registrant or licensee in the IDZ outside the CCA, by arrangement with the Controller;
 - (ii) security personnel at the entrance or exit, shall be 24 hours daily;
 - (iii) the IDZ operator performing functions contemplated in rule 21A.07(b)(i), from 00:00 to 24:00 daily or during the times determined by the IDZ operator.
- (b) Persons, goods and vehicles may enter or exit the CCA only if the IDZ operator is in attendance as contemplated in paragraph (a)(iii).

Duties and functions of the IDZ operator

21A.07 In addition to any requirement prescribed in the regulations, the IDZ operator shall, in respect of the CCA -

- (a) maintain the buildings, roads, equipment, security and other requirements specified in rule 21A.04, in accordance with the reasonable requirements of the Commissioner;
- (b) (i) be responsible for the control of the entry and exit of persons, goods and vehicles and keep a record thereof;

- (ii) ensure that persons who enter the CCA display at all times badges, supplied and controlled by the IDZ operator, in accordance with the following categories–
 - (aa) IDZ operator personnel, with special badges for those who control the entrance and exit of the CCA as contemplated in subparagraph (i);
 - (bb) CCA enterprise personnel;
 - (cc) IDZ security personnel;
 - (dd) customs officers; and
 - (ee) visitors (who may include persons of any trade or profession who visit the CCA temporarily);
 - (iii) comply with such other requirements, which may include the qualifications and training of the personnel who control the entrance and exit of the CCA and procedures to be observed in performing that function, as the Commissioner may determine.
- (c) submit monthly or at such other intervals as the Commissioner may determine electronically or by paper document such information regarding the movement of persons and goods into and out of the CCA and any other of the IDZ operator's functions as required by the Commissioner, which may include –.
- (i) names and Identification Document Numbers of persons employed in the CCA;
 - (ii) names and Identification Document Numbers of persons who entered the CCA and the times of entry;

Registration and licensing of a CCA enterprise

- 21A.08 (a) (i) Every CCA enterprise must register or licence in accordance with the provisions of the Act on a form DA 185 and the appropriate annexure.
- (ii) The application must be supported by -
- (aa) the documents and information specified in the application form;
- (bb) if applicable, the security particulars specified on form DA 185.C
- (b) Subject to any requirement that may be specified in these rules or by the Commissioner, the provisions of section 59A or section 60 and their rules, as may be applicable, shall apply *mutatis mutandis* –
- (i) to such application or refusal of any application; and
- (ii) to the cancellation or suspension of any registration or licence.
- (c) Where any IDZ operator's permit is -
- (i) suspended
- (ii) suspended and subsequently withdrawn; or
- (iii) withdrawn,
- in terms of the regulations, any registration of a CCA enterprise, including for the purposes of item 498.00 of Schedule No. 4, shall continue to subsist for a period of 12 months from the date such permit -
- (aa) is suspended as contemplated in subparagraph (i) and (ii); or
- (bb) withdrawn as contemplated in subparagraph (iii).
- (d) Where any IDZ operator's permit is suspended or withdrawn in terms of the regulations, the IDZ operator shall -
- (i) not be entitled to enter any goods under rebate of duty during the period such permit is suspended, or if it is not suspended before withdrawal, from the date it is withdrawn; and
- (ii) account for any goods received under rebate of duty and comply with such other requirements within such period as the Commissioner may determine.

Commissioner to be advised of changed particulars and issue of a new registration or licence

- 21A.09 (a) (i) Whenever any of the particulars furnished in any application for registration or a licence changes in any material way, the licensee shall advise the Commissioner within seven days from the date of the occurrence of such event by submitting a completed application form DA185 and the appropriate annexure reflecting the changed particulars.
- (ii) For the purpose of subparagraph (i) 'changes in any material way' shall include -
- (aa) relocation; or
- (bb) where the legal status or name of the registrant or licensee changes for any reason.
- (iii) In any case where in the opinion of the Commissioner the security is compromised in any manner by such change, the form, nature or amount of such security shall be altered as the Commissioner may require in accordance with the provisions of section 60(1)(c)(ii).
- (iv) On approval of the application for the changed particulars, the Commissioner may issue a new registration or licence in respect of such change.

Dealing with goods in or removal of goods to and from a CCA and documentation required for such goods

Goods entering into or removed from a CCA and documentation required

- 21A.10 (a) (i) No goods may enter or be removed from a CCA unless, as may be applicable, the goods,
- (aa) if subject to customs and excise laws and procedures, have been entered at the office of a Controller, and -
- (A) have been released for removal to the CCA or;
- (B) have been released for removal from the CCA
- (bb) when CCA VAT goods, are accompanied by a prescribed VAT 267 form together with a tax invoice where applicable
- (ii) Any goods which may be removed to or from a CCA that are -
- (aa) imported into a CCA from outside the common customs area;

- (bb) removed in bond or in accordance with any other procedure without payment of duty to a CCA enterprise in the CCA;
 - (cc) exported from a CCA;
 - (dd) removed in bond from a CCA;
 - (ee) manufactured in or imported into the CCA, that are removed from the CCA for consumption in the common customs area (including any removal under rebate of duty); or
 - (ff) removed from one CCA enterprise to another (whether in the same or another IDZ) under any procedure,
- must be entered as required in terms of the appropriate customs and excise procedure at the office of the Controller.
- (iii) (aa) Any removal under rebate of duty may include removal of rebate goods or goods partly or wholly manufactured under rebate of duty from a registered rebate manufacturer to another registered rebate manufacturer within or outside the CCA.
 - (bb) Any goods must be so removed on the prescribed form which must be accompanied by a tax invoice where applicable in respect of the partly or wholly manufactured goods.
 - (iv) Any goods imported into a CCA for storage, must, whether or not liable to duty, be entered for storage and stored in a customs and excise storage warehouse licensed in terms of the Act or if for manufacture under rebate entered under rebate and stored in a rebate storeroom.

Movement of CCA VAT goods and services

- (b)(i) (aa) CCA VAT goods must be declared on a VAT 267 form upon entry into or removal from a CCA.
- (bb) Services required to be declared on a VAT 267 form must be so declared before rendering those services inside or outside the CCA.
- (ii) (aa) The completed VAT 267 form must be delivered to the IDZ operator at the entrance to or exit from the CCA who must verify that the form specifies, as may be applicable, the goods brought into or the services to be rendered inside or outside the CCA and, if satisfied regarding the correctness of the declared particulars, must sign and otherwise

deal with the form according to the instructions issued by the Commissioner.

(bb) The IDZ operator must keep a record of VAT 267 forms received and account for the forms to the IDZ SARS office as prescribed in rule 21A.10(d)(i)(dd).”

(iii) Goods removed from a CCA into the Republic must also be properly described and accompanied by a tax invoice prescribed by the VAT Act.

Temporary removals of CCA VAT goods to or from a CCA

- (c) (i) Where CCA VAT goods are temporarily removed to or from a CCA, application in writing must be made to the Controller.
- (ii) Any person in the CCA who receives or removes such goods must comply with the conditions imposed by the Controller.
- (iii) If the goods are not returned to the CCA enterprise within 30 days, or within a period arranged in writing with the Controller the CCA enterprise will be liable to account for VAT in terms of the relevant provisions of the VAT Act in the tax period after the expiry of the period of 30 days or the period as arranged with the Controller.

Documentation for (a), (b) and (c)

- (d)(i)(aa) Copies of customs clearance documents for goods contemplated in paragraph (a) must be produced in triplicate to the IDZ operator, who after verifying that the documents specify the goods entering or leaving the CCA, must stamp and sign the reverse thereof and retain one copy.
- (bb) VAT 267 forms must be signed and kept as contemplated in rule 21A.10(b).
- (cc) A copy of the approval for a temporary removal referred to in paragraph (c) must accompany the relevant VAT 267 form and must be retained by the IDZ operator.
- (dd) The IDZ operator must keep, in a form approved by the Commissioner, a daily record of such originals or copies and deliver by hand all originals or copies retained during any day together with a copy of such record to the IDZ SARS office on the following working day.
- (ii) Where any goods arrive at the entrance or exit of the CCA for removal into or from the CCA for which no document specified in

these rules is produced or of which the particulars do not agree with the accompanying documents, the IDZ operator must not allow the goods to enter or exit the CCA and must request the Controller to send an officer who must then inspect the goods and documents and further deal with the goods in accordance with the Act.

Goods liable to excise duty, fuel levy or environmental levy manufactured in a CCA

- (e) (i) Any goods liable to excise duty, fuel levy or environmental levy, may only be manufactured in a CCA in a customs and excise manufacturing warehouse.
- (ii) For the purposes of paragraph (e)(i), goods manufactured in the CCA may only be removed for storage outside a CCA in a customs and excise warehouse in the circumstances and in accordance with the customs and excise laws and procedures prescribed in the rules for that section or chapter.

Goods free of duty

- (f) (i) (aa) Any goods imported by a CCA enterprise which are free of duty, may be stored in a customs and excise manufacturing or storage warehouse licensed in the CCA.
- (bb) Any such goods may not be removed to another such warehouse in the common customs area.
- (ii) Where goods which are free of duty are used in any manufacturing process, the registrant or licensee, as may be applicable, must keep a proper record thereof as if the goods were liable to duty.

Payment of duty on goods used in or removed to a CCA

- (g) (i) Where any goods imported from outside the common customs area into, or any goods manufactured in a CCA, are used, sold or otherwise disposed of in the CCA in circumstances which render those goods liable to payment of duty, entry thereof must be made at the office of the Controller before such use, sale or otherwise disposal of.
- (ii) Where such goods have been produced or manufactured by a rebate registrant, the rebated duty on imported goods used in the

production or manufacture must be paid at the office of the Controller.

- (h) Except if used in manufacturing in terms of the Act, no goods liable to excise duty, fuel levy or environmental levy may be removed to a CCA for consumption therein unless the goods have been entered for payment of duty.

Manufacturing losses, goods destroyed or abandoned

- 21A.11 (a) (i) The provisions of section 75(18) and any relevant provision of Schedule No. 4, 5 or 6 relating to manufacturing losses, goods destroyed or abandoned or goods off specification or recycled are applicable to any activities in a CCA.
- (ii) Normal losses during manufacturing under rebate of duty which are of no commercial value, may, if not included in any provision contemplated in subparagraph (i), be disposed of or destroyed as the Controller may direct.

Liability for duty

- 21A.12 (a) Any goods referred to in section 21A(7) which are free of duty and liable to VAT are, except where the VAT Act otherwise provides, subject to the provisions of the Act relating to the liability for duty as contemplated in the provisions of section 21A(5).
- (b) For the purposes of section 21A liability for duty of the CCA enterprise, IDZ operator or other person on any goods removed from a CCA in terms of any authorized procedure shall, unless proof has been obtained in an improper or fraudulent manner, cease in the case of -
- (i) goods contemplated in section 18(3)(a), when it is proved that the goods have been received in and entered for re-warehousing at the destination in the Republic or any BLNS country to which they were removed in terms of the removal in bond bill of entry;
- (ii) goods contemplated in section 18A(1) and (2) that are exported by road to any destination outside the common customs area, when it is proved that the goods have left such area;

- (iii) goods exported by means of any ship or aircraft, when it is proved that the goods have been loaded into, for carriage by, such ship or aircraft;
 - (iv) goods carried by rail to any destination outside the common customs area, when the enterprise, operator or other person concerned confirms that the goods were received by the consignee in the country of destination;
 - (v) goods entered under rebate of duty for delivery to a rebate user, when such user duly acknowledges receipt of such goods; or
 - (vi) any duty due on any goods has been paid to the Controller.
- (c) Where in respect of any goods removed in bond, or removed in terms of any procedure authorizing a refund of duty or exported -
- (i) any proof has been improperly or fraudulently obtained; or
 - (ii) any goods are damaged or destroyed or lost or diminished before liability has ceased as contemplated in paragraph (b),
- the licensee shall furnish a full report within 14 days after such an event and pay any duty due to the Controller.

Keeping of books, accounts and documents

- 21A.13 (a) For the purpose of section 101 and notwithstanding anything to the contrary in any rule contained, every IDZ operator and CCA enterprise must -
- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the registration or the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the registration or licence is issued;
 - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.

- (b) Such books, accounts, documents and data must include -
- (i) Where applicable -
 - (aa) proper accounting records of each type of goods manufactured, imported, received, stored, repacked or used or removed which include copies of invoices, dispatch delivery notes, bills of entry, transport documents, orders, payments received and made and proof of delivery to the consignee in respect of goods removed for any purpose excluding home consumption and payment of duty;
 - (bb) a stock account balanced monthly.
 - (ii) Where the CCA enterprise manufactures any goods, a stock record wherein the following must be recorded daily:
 - (aa) receipts of materials for manufacturing;
 - (bb) quantities of materials used and the nature and quantities of goods produced from such materials;
 - (cc) the production rate of the materials used;
 - (dd) nature and quantities of by-products or other goods manufactured;
 - (ee) a separate record of manufacturing losses and other losses and goods damaged or destroyed.
 - (iii) A reference number must be allocated to, and quoted on all documents relating, to goods received or manufactured in and exported or otherwise removed from a CCA according to which those goods can be readily identified in the production or other accounting records of an IDZ operator or CCA enterprise.
- (c) Any accounting records kept in respect of the business of an IDZ operator or CCA enterprise shall utilize information prepared in a manner consistent with generally accepted accounting principles appropriate for such business and for fulfillment of the requirements of the Act and these rules relating to the activities performed in a CCA.

RULE FOR SECTION 22 OF THE ACT

Samples of goods in customs and excise warehouses

22.01 Samples of warehoused goods, in such quantities as the Controller may permit, may be taken by the owner thereof under customs and excise supervision provided application is made to the Controller. Such application shall state the number and the date of the bill of entry on which the goods were entered for warehousing and the marks and numbers of the packages from which the samples are to be extracted.

RULES FOR SECTION 24 OF THE ACT

Ships' or aircraft stores consumed in the Republic

24.01 The master of a ship or the pilot of an aircraft, shall produce any stores on board his ship or aircraft (irrespective of where such stores were taken on board) whenever and wherever he is required to do so by a Controller, and shall provide facilities for such stores to be placed under seal. For the purposes of section 24 any goods shipped as stores shall not be liable for duty if such stores have been consumed for the operation of the ship or aircraft itself or consumed by the master or pilot or any member of the crew or any passenger as part of the service included in the service contract of such master, pilot or crew member or fare of such passenger without extra payment therefor.

24.02 The master of a ship entering the coasting trade of the Republic and becoming a coasting ship, temporarily or permanently, shall pay all duties leviable on any unconsumed stores on board the ship at the time it so enters the coasting trade or shall warehouse such stores in a customs and excise warehouse. A clearance for the ship shall not be issued to such master until he has paid such duties or warehoused such stores: Provided that where tankers temporarily enter the coasting trade and their voyage starts and ends at a specific port the Controller may take a count of the stocks on board on first arrival as well as on return and shall collect the duty on the stores used during the coastal voyage.

24.03 Naval ships and military and naval aircraft on a visit to any port or place in the Republic shall be exempt from the payment of duty on stores consumed on such ship in any port in the Republic or such aircraft on a flight between any places in the Republic.

24.04 Foreign registered ships on pleasure cruises that call at coastal ports for short visits shall, subject, in each case, to the prior approval of the Controller be exempt from the payment of duty on stores of tariff headings Nos. 22.02, 22.03, 22.05, 22.06, 22.07, 22.09 and 24.02 supplied for own use to passengers of such ships provided –

- (i) wine is supplied in glasses or served in opened bottles or other containers for table use;
- (ii) beer is served in glasses or opened bottles or other containers;
- (iii) spirituous beverages are served in glasses for table use;
- (iv) cigarettes and tobacco products are sold per individual packet or tin; and
- (v) aerated water, mineral water and other non-alcoholic beverages are served in opened bottles or other containers.

The exemption from the payment of duty will not apply in the case of functions on board ships attended by persons who are not passengers or members of the crew of such ships.

RULE FOR SECTION 25 OF THE ACT

Application to repack warehoused goods

- 25.01 (a) For the purposes of this rule “repack” or “repacking” includes any operation contemplated in section 25.
- (b) This rule does not apply to any special customs and excise storage warehouse for which a licence is issued in accordance with the provisions of section 21 -
- (i) allowing the licensee, subject to conditions imposed by the Commissioner, to dispose of goods from such warehouse in rendering services -
 - (aa) as a duty free shop;
 - (bb) as a supplier of stores for foreign-going ships and aircraft;
 - (cc) as a stockist for supplying specified goods for home consumption including under rebate of duty;
 - (dd) in respect of which the Commissioner, on good cause shown, determines that this rule is not applicable; or
 - (ii) for the storage of goods contemplated in section 21(3).
- (c) A licensee of a customs and excise storage warehouse or the owner of any goods in such warehouse may, for the purposes contemplated in section 25, apply in writing to the Controller to repack such goods in such warehouse.
- (d) The application must be accompanied by a draft voucher of correction reflecting the countable quantities in which the goods will be repacked and the customs or excise value appropriately apportioned to such quantities.

- (e) Goods may not be repacked in single units, such as stationery items, perfumery, toilet preparations and bottles of liquor or other units that are usually sold in the retail trade, except where such units are usually sold both in the wholesale and retail trade.
- (f) The goods may not be so repacked unless authorised by the Controller who may require that repacking must be done under supervision of an officer.
- (g) No such repacked goods may be entered in accordance with any procedure for removal from such warehouse unless the voucher of correction has been duly processed at the office of the Controller.

RULES FOR SECTION 26 OF THE ACT

Transfer of ownership of warehoused goods

26.01 For the purposes of section 26, any application for the transfer of ownership of dutiable goods in a customs and excise warehouse shall be made to the Controller and shall be supported by –

- (a) documents relating to such goods and the agreement in respect of the transfer of ownership;
- (b) a statement by the transferee furnishing full particulars of his business and the destination of such goods;
- (c) forms SAD 500 and SAD 505 in draft form for the purpose of re-warehousing of the goods;
- (d) if for export, full particulars relating to the transaction and the consignee which shall include the order for the goods;
- (e) the following declaration by the transferor and the transferee: -

“I,for
transferor, hereby declare that ownership of the above-mentioned goods, which
are my property, is transferred to
address

For transferorDate

“I,for transferee,
hereby accept liability in terms of the provisions of the Customs and Excise Act,
1964 in respect of the goods described herein.

For transferee Date

(f) such security as the Controller may require.

26.02 The declaration to which rule 26.01(e) relates shall be furnished and signed by the transferor and transferee on his or her own letter-headed paper and not by an agent acting on his or her behalf.

RULES FOR SECTION 27 OF THE ACT

General rules regarding the manufacture of goods in a customs and excise warehouse

- 27.01 Subject to the provisions of rule 19.01 any application for the licensing of a customs and excise manufacturing warehouse shall state the nature of materials and the processes to be used in the manufacture of every excisable or other product, the expected annual quantities of such materials to be so used and the expected annual production of every excisable product: Provided that the nature and quantity of materials to be used in the manufacture of goods specified in Section B of Part 2 of Schedule No. 1 need not be stated.
- 27.02 Plans of the premises and plant to be used in connection with the manufacturing of goods in a customs and excise manufacturing warehouse and of the location of the plant on such premises shall be submitted to the Controller with as many copies as he may require, before the commencement of manufacturing and no alternation to such premises or plant shall be made without the prior permission of the Controller. Distinguishing marks or numbers as the Controller may require shall be indicated on every room, vessel, still, utensil or other plant and such mark or number shall be shown on schedules submitted with such plans.
- 27.03 Vessels, stills and other plant in a customs and excise manufacturing warehouse shall be placed, fixed and connected as the Controller may require and the licensee shall not alter the shape, position or capacity of any plant or install any additional or new plant or remove any plant without the permission of the Controller after submission to him of an application for alteration of such plant.
- 27.04 No manufacturing shall commence in a customs and excise manufacturing warehouse without the permission of the Controller.
- 27.05 All rooms, places, plant, distilling apparatus, spirits receivers and other fixed vessels or containers in a customs and excise manufacturing warehouse shall be locked or otherwise secured as the Controller may require and the licensee shall at his own expense provide, apply, repair and renew whatever is required to enable an officer to affix locks to such rooms, places, plant, distilling apparatus, spirits receivers and other fixed vessels or containers, or to secure them in any other manner.

27.06 Every pipe in a customs and excise manufacturing warehouse shall, except with the permission of the Controller or unless used exclusively for the discharge of water and spent wash, be so fixed and placed as to be capable of being examined for the whole of its length. Pipes for the conveyance of different materials or products shall be painted in a manner approved by the Controller, in the following colours:

For wine or wash	: red
For foreshots, feints or low wines	: blue
For spirits	: black
For water	: white

The licensee shall paint such pipes at his own expense and shall repaint such pipes whenever required by the Controller. Every cock and valve used in such warehouse shall be of a type approved by the Controller. The licensee shall keep such cocks and valves in proper repair at all times.

27.07 When a manufacturing operation has been completed in a customs and excise manufacturing warehouse, the licensee shall give the Controller all the necessary assistance in ascertaining the quantity and strength or other particulars of the goods manufactured and record such particulars and render such returns as he may require. A licensee shall stop any operation or the working of any still when required to do so by the Controller for the purpose of testing the output.

27.08 Every licensee who is required to do so by the Controller shall furnish a diagram to scale of any still, utensil or other plant in his customs and excise manufacturing warehouse together with explanatory notes relating to the working of such still, utensil or other plant.

27.09 Except with the permission of the Controller no excisable goods manufactured in a customs and excise manufacturing warehouse shall be removed from a receiver, vessel or other container in which they were collected until account thereof has been taken by the Controller.

27.10 Every licensee of a customs and excise manufacturing warehouse shall, unless exempted by the Controller, keep a stock record, in a form approved by the Controller, in which such licensee shall record daily such particulars of receipts of materials,

nature and quantities of excisable goods manufactured, nature and quantities of by-products or other goods manufactured and disposal of goods manufactured and such other particulars as the Controller may require in each case. Such stock record shall, when not in use, be kept in a fire-proof safe.

27.11 Every licensee of a customs and excise manufacturing warehouse shall furnish to the Controller such returns showing such particulars and at such times and under such conditions as he may decide.

27.12 The Controller may give instructions in writing to any licensee specifying in what part of the warehouse –

- (a) any process in the manufacture is to be carried on; and
- (b) any material for use in manufacture and manufactured goods, respectively, are to be kept.

27.13 The provisions of rules 27.02 to 27.07 and 27.10 shall not apply in respect of special customs and excise warehouses for purposes of the duty specified in Section B of Part 2 of Schedule No. 1.

Additional rules regarding the manufacture of spirits in customs and excise manufacturing warehouses

27.14 All wash shall be fermented in the entered fermenting vessels and all wash and wine shall, before being conducted to a still for distillation, be placed in the entered chargers and conducted thence through the pump and head tank by means of closed metal pipes or other pipes of a kind approved by the Controller direct to the still.

27.15 No person shall feed any wine, spirits or spirits mixed with wine or wash into any still from a charger unless the Controller has taken account of the quantity and strength thereof. Thereupon the Controller shall lock or seal the charger which shall be kept so locked or sealed throughout the distilling operation, but he may, in respect of such class or kind of charge and on such conditions as he may decide, dispense with the requirement of locking or sealing any charger or of taking account of any charge.

27.16 Every licensee shall keep, as the Controller may require, proper warehouse registers of all spirits in his customs and excise manufacturing warehouse, and he shall keep a true

record in transfer book of all transfers of such spirits from one vessel or container to another. Such transfers shall not be effected without the permission of the Controller and shall be recorded in the transfer book immediately on completion of each such transfer.

27.17 In every case where any person is required to show in any entry, certificate, return, invoice, declaration or other document the strength of spirits manufactured in the Republic he shall state the true alcoholic strength, i.e. the strength as would be indicated by the glass alcohol hydrometer after the removal of any obscuration in such spirits.

27.18 For the purposes of these rules “pot still brandy” means brandy as defined in section 9 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970).

27.19 Unfortified wine approved for distillation of pot still brandy may, with a view to preservation be topped or fortified with pot still brandy certified by the Wine and Spirit Board and wine so topped or fortified shall not be regarded as fortified wine on distillation.

27.20 Distillation of wine in the manufacture of pot still brandy shall be fractional and non-continuous.

27.21 The pipes used by a distiller in connection with the distillation of pot still brandy shall be of copper or other material approved by the Controller and shall be closed throughout their entire length. The discharge ends of pipes shall be secured in the receivers in a manner approved by the Controller.

27.22 All receivers for pot still brandy shall be constructed of material approved by the Controller.

27.23 A representative sample of the distilled pot still brandy shall be taken direct from the receiver and submitted to the Wine and Spirit Board for certification. Only the middle run of any distillation shall be accepted for certification.

27.24 Feints (first runnings and after runnings) of pot still brandy distilling or re-distilling operations may be added to approved wine for distillation or to low wines for re-

distillation of pot still brandy and the former operation may be treated as a mixed distillation.

27.25 Any customs and excise manufacturing warehouse or any portion thereof for the storage of pot still brandy for maturation shall be specially approved by the Controller for such purpose and such approved warehouse or portion thereof shall not be used for any other purpose without the written consent of the Controller.

27.26 All casks for the storage of pot still brandy for maturation shall be sound and clean. They shall not be painted in any manner, except that the heads may be painted with water paint. They shall not have undergone any internal treatment, shall be free from mustiness or greenness, and shall not exceed 340 litres in capacity: Provided that certified pot still brandy matured in casks not exceeding 340 litres in capacity for a period of not less than three years may, with the written permission of the Controller, thereafter be transferred under official supervision to casks exceeding 340 litres in capacity, for further maturation.

27.27 All casks containing spirits for maturation shall be plainly marked on one of the outside ends, with a distinguishing number, the year of removal to a customs and excise manufacturing warehouse for maturation and such other information as the controller may require.

27.28 The stacking of casks containing spirits for maturation in a customs and excise manufacturing warehouse shall be in a manner approved by the Controller. No spirits shall be removed from any cask during the period of maturation, except under the supervision of the Controller.

27.29 The stacking of packages or vessels containing spirits in a customs and excise manufacturing warehouse shall be in a manner approved by the Controller.

27.30 Such particulars as the Controller may require shall be marked on one of the outside ends of all packages or vessels (except fixed vessels) containing spirits in a customs and excise manufacturing warehouse. All such particulars shall be legibly painted and kept so painted thereon in letters or figures of such size as the Controller requires.

Additional rules regarding the manufacture of minerals oils

27.31 The provisions of rules 36.04, 36.04(a) and 36.06 shall *mutatis mutandis* apply in respect of any removal of mineral oils ex warehouse and for that purpose any reference to beer shall be deemed to be a reference to mineral oils.

RULES FOR SECTION 28 OF THE ACT

Ascertaining the quantity of spirits for duty purposes

28.01 Whenever an officer ascertains the quantity of spirits in any container -

- (a) by mass, he or she must use the tables contemplated in rule 32.01 and the tolerance provided for in section 2 shall not apply; and
- (b) by volume, he or she must allow the tolerance provided for in section 28(2).

RULES FOR SECTION 30 OF THE ACT

Control of the use of spirits for certain purposes

30.01 Samples for submission to the Wine and Spirit Board in terms of section 30(1) of the Act, or for approval in terms of section 9 of the Wine and Spirit Control Act (Act No. 47 of 1970) shall, wherever possible, be taken by, or under the supervision of the Controller, and shall be despatched in a manner determined by him. The licensee concerned shall furnish such declaration and in such form as the Controller may require. Any certificate issued by the Wine and Spirit Board shall be deemed to be a decision in respect of any sample submitted.

30.02 No person shall without authority of the Controller tamper with, substitute or alter any sample or a label thereon after such sample has been taken for certificate or approval.

RULES FOR SECTION 32 OF THE ACT

Ascertaining the strength of spirits for duty purposes

- 32.01 The strength of any spirits or spirituous preparation imported into or manufactured in the Republic shall be determined by means of an alcohol hydrometer and the tables in volume 2 of the “Practical Alcohol Tables” (published by the International Organisation of Legal Metrology).
- 32.02 In any bill of entry, certificate, return, invoice, statement or other document submitted to the Controller in accordance with the provisions of the Act in respect of imported spirits or spirituous preparations or spirits or spirituous preparations manufactured in the Republic, the strength of such spirits or spirituous preparations shall be declared as percentage alcohol by volume at 20° Celsius.

RULES FOR SECTION 33 OF THE ACT

Requirements in respect of stills

- 33.01 Subject to the provisions of rule 33.02 no person, other than a museum or an agricultural college approved by the Controller and an agricultural distiller, shall use a pot still with a capacity of less than 680 litres or a continuous still which is not capable of distilling 910 litres or more of wine or wash per hour.
- 33.02 The provisions of rule 33.01 shall not apply to any still lawfully in use at the time of the commencement of the Act, or to any still which the Controller may authorise to be used for the distilling or manufacture of essences or such other preparations as he may determine, or for experimental purposes.
- 33.03 No approved museum or agricultural college and agricultural distiller shall use a still with a capacity of less than 90 litres for distilling spirits: Provided that this requirement shall not apply in respect of a still which is lawfully in the possession of an agricultural distiller immediately prior to the commencement of the Act.
- 33.04 No person shall use a still for distilling spirits, and no licence to distil spirits therein shall be issued, unless such still is made wholly of copper, tin, stainless steel or aluminium. The said stills shall only be repaired with one or more of the

aforementioned metals (not coatings thereof) unless otherwise approved by the Controller.

RULES FOR SECTION 34 OF THE ACT

Additional Provisions regarding spirits manufactured by agricultural distillers

- 34.01 No agricultural distiller in the Province of Gauteng, Mpumalanga, Northern Province, North-west or the Free State shall distil spirits from any fruit other than fresh apricots, apples, grapes, cherries, pears, peaches, plums, citrus or figs.
- 34.02 An agricultural distiller shall not use a still which is not erected on a foundation of brick, stone or cement and is not securely built-in to the satisfaction of the Controller and in a position approved by him on the farm in question.
- 34.03 Every agricultural distiller shall submit on the prescribed forms –
- (a) to the Controller within 30 days after the first day of January in each year, a return of spirits in his possession on the first day of January;
 - (b) to the Controller within 14 days after completion of each new distillation or redistillation of spirits by him, a return of the quantity and strength of the spirits so distilled or redistilled; and
 - (c) on demand by an officer, a return, declared by him to be correct, of the strength and quantity of spirits in his possession on the date of such demand.
- 34.04 The return required in terms of rule 34.03(a) shall also be rendered by a person who has ceased to be an agricultural distiller, but who was an agricultural distiller during the preceding calendar year.
- 34.05 When an agricultural distiller ceases to operate as an agricultural distiller or ceases to be an agricultural distiller in terms of the provisions of the Act he shall notify the Controller forthwith and furnish at the same time a return of the nature referred to in rule 34.03(c) of the date on which he ceases to operate as or to be an agricultural distiller. He shall also pay the duty forthwith on any spirits stated in such return to be in his possession on such date unless such spirits are consumed on such farm in accordance with the provisions of the Act and shall surrender to the Controller the counterfoils of any certificate issued in respect of any spirits, as well as any unused certificates in his possession.

34.06 Unless any exemption has been granted in terms of the provisions of section 27(16), rules 20.10 to 20.17, 27.01 to 27.10 and 27.13 to 27.15 shall *mutatis mutandis* apply to any agricultural distiller and to any spirits manufactured by him, and for the purpose of such application any reference to a customs and excise manufacturing warehouse shall be deemed to be a reference to the farm owned or occupied by such agricultural distiller or on which such spirits are manufactured.

RULES FOR SECTION 35 OF THE ACT

Additional rules regarding the manufacture of wine

35.01 Rules 19.01 to 19.06 shall *mutatis mutandis* apply to the approval and conduct of any special customs and excise warehouse for the manufacture of wine.

35.02 Unless any exemption has been granted in terms of the provisions of section 27(16), rules 20.10 to 20.17 and 27.01 to 27.10 shall *mutatis mutandis* apply to the manufacture of wine in any special customs and excise warehouse

35.03 Unless exempted by the Controller, invoices reflecting at least the name of the licensee, the consignee, the quantity, the date, the type of packaging and the nature of the product shall, prior to removal of any wine, be completed in respect of all wine removed from a special customs and excise warehouse or a customs and excise manufacturing warehouse. The duplicates of such invoices, any consignment notes, shipping documents and any other documents relating to such wine shall at all times be made available to the Controller for inspection.

35.04 In the case of any removal of wine ex warehouse for payment of duty, the relative invoice referred to in rule 35.03 shall be deemed to be a certificate for removal of excisable goods but copies of such invoices shall not be deposited in the entry box unless required in writing by the Controller on the date or for the period mentioned in rule 20.14.

35.05 In the case of any removal of wine ex warehouse for a purpose other than payment of duty, the relative invoice referred to in rule 35.03 shall not be accepted as a certificate for removal of excisable specified goods and such removal shall be subject in all respects to the Provisions of rules 20.10 to 20.17.

- 35.06 (a) A licensee of a customs and excise warehouse or special customs and excise warehouse in which wine is manufactured, may only remove, or permit the removal, of wine in bulk –
- (i) to the licensee of another such warehouse;
 - (ii) to the licensee of a VMP warehouse contemplated in the rules numbered 19A3 for the primary production of spirits;
 - (iii) to the licensee of a special customs and excise storage warehouse licensed for the storage of wine for export; or
 - (iv) for direct export from that warehouse.
- (b) For the purposes of paragraph (a), "wine in bulk" means wine not in normal packaging for sale by retail.

RULES FOR SECTION 35A OF THE ACT

Additional rules regarding the manufacture of cigarettes and cigarette tobacco

- 35A.01 The Controller may permit an average mass, ascertained from time to time in the manner approved by him, of each class of each brand of cigarettes or cigars manufactured in any customs and excise manufacturing warehouse to be used in that warehouse for purposes of calculating the duty on such class of cigarettes or cigars for such time as he may permit.
- 35A.02 Subject to the proviso to section 35A(2) no manufacturer shall remove any cigarettes or cigarette tobacco or permit any cigarettes or cigarette tobacco to be removed from his licensed customs and excise manufacturing warehouse for consumption in the Republic unless –
- (a) in the case of cigarettes they are properly packed in an unbroken and unopened container which contain ten, twenty or thirty cigarettes; and the stamp impression determined in terms of section 35A(2) has been made thereon; and
 - (b) in the case of cigarette tobacco it is properly packed in an unbroken and unopened container containing a nett mass of fifty grams or multiples thereof with a maximum of two hundred grams.
- 35A.03 The dies for making the stamp impressions referred to in section 35A(2) shall be made available by the Office to manufacturers on payment of an amount to be

decided upon from time to time. Manufacturers shall keep proper record of all such dies under their control and damaged and worn out dies shall be returned to the Office within seven days from the date of replacement of such dies.

- 35A.04 The name and address of the licensee of the customs and excise manufacturing warehouse in which any cigarettes or cigarette tobacco are manufactured or any identification mark or number, in lieu of such name and address, approved by the Controller, shall be permanently applied to the immediate container of such cigarettes or cigarette tobacco in a manner approved by him.
- 35A.05 The provisions of rules 36.04, 36.05(a) and 36.06 shall *mutatis mutandis* apply in respect of any removal of manufactured tobacco ex warehouse and for that purpose any reference to beer shall be deemed to be a reference to manufactured tobacco.

RULES FOR SECTION 36 OF THE ACT

Additional provisions regarding the manufacture of beer

- 36.01 (a) At least 24 hours before any brew is begun, the manufacturer shall record the day and hour of brewing, together with the date of making the entry, and at least 2 hours before commencing to mash he shall record the quantity and kind of materials to be used. The manufacturer shall also record the quantity of worts collected and the relative density of the worts before fermentation, the numbers and description of the vessels in which the worts were collected, and the time when the entry is made. Such entry shall be made not later than 1 hour after the collecting has been completed. The manufacturer shall record the aforementioned particulars in a brewing book, in the approved form, within 48 hours after the brew has been collected.
- (b) If worts of different brews are mixed at any stage of manufacture, the manufacturer shall record in the brewing book (within 1 hour of such mixing), the relative quantities, relative density before fermentation and such other particulars as the Controller may require in respect of the different quantities so mixed and also the quantity and relative density before fermentation of the mixed worts.

- (c) Sugar solutions shall not exceed 1 150 degrees relative density. Pure caramel used for colouring purposes and sugar solutions shall be prepared, recorded and used in a manner approved by the Controller.
- (d) If at any time after fermentation has commenced in any worts so that the original relative density cannot be ascertained by the prescribed sacchorometer, the original relative density thereof is required to be ascertained, such relative density shall be ascertained in the following manner
 - (i) from a sample taken from any part of such worts, a definite quantity at 15,6 degrees Celsius shall be distilled;
 - (ii) the distillate and residue shall each be made up with distilled water to the total quantity before distillation and the relative density of each shall be ascertained; and
 - (iii) the number of degrees by which the relative density of the distillate is less than the relative density of distilled water shall be deemed the spirit indication of the distillate.

36.02 The manufacturer shall keep a brewing book in the form approved by the Controller, in his customs and excise manufacturing warehouse where it shall at all times be available to the Controller and ready for inspection. Such brewing book shall reflect the day and hour of brewing, the quantity and kind of materials used, the quantity of beer manufactured and such other particulars as the Controller may require.

36.03 In the manufacture or preparation of beer for sale, a manufacturer shall not use or add any saccharin, sucramine or sugarol, or any of the compounds of saccharin, sucramine or sugarol respectively, or any other substance (except sugar) that shows a positive reaction to the chemical tests for saccharin.

36.04 Invoices reflecting the names of the licensee and consignee, quantity, date, trade name, type of packaging and such other particulars as the Controller may require, shall be completed by every manufacturer to cover all beer removed from any customs and excise manufacturing warehouse, and copies of such invoices shall at all times be available for inspection by the Controller. Consignment notes, shipping documents and such other documents and returns as the Controller may require, shall also be made available to him on demand.

36.05 (a) In the case of any removal of beer ex warehouse for payment of duty, the relative invoice referred to in rule 36.04 shall, for the purposes of rule 20.11 be deemed to be a certificate for removal of excisable/specified goods, but copies of such invoices shall not be deposited in the entry box unless required in writing by the Controller on the date or for the period mentioned in rule 20.14. The quantities of beer so removed shall, however, be declared monthly on a bill of entry in terms of the provisions of rule 20.13.

(b) For the purposes of this rule any quantity of beer shall be such quantity expressed in litre alcohol by volume.

36.06 In the case of any removal of beer ex warehouse for any purpose other than payment of duty, the relative invoice referred to in rule 36.04 shall not be accepted as a certificate for removal of excisable/specified goods and such removal shall be subject in all respects to the provisions of rules 20.10 to 20.17.

RULES FOR SECTION 36A OF THE ACT

Additional rules regarding the manufacture of goods subject to excise duty specified in Section B of Part 2 of Schedule No. 1

36A.01 Every manufacturer of excisable goods specified in Section B of Part 2 of Schedule No. 1 and every owner of such goods manufactured for him partly or wholly from materials owned by such owner shall apply to the Controller on a form DA 185 and the relevant annexure for the licensing of his premises as a special customs and excise warehouse. These forms, duly completed, shall be accompanied by –

- (a) a duly completed Certificate of Value for goods liable to Excise Duty. Should any change in such manufacturer's or owner's sales policy occur the Controller shall be furnished with a fresh Certificate of Value;
- (b) a list of machines and/or equipment which in terms of section 114(1)(aA) will automatically be subject to a lien; and
- (c) a list of names and addresses of directors/partners/proprietors of/in the company concerned.

36A.02 Any such licensee shall notify the Controller immediately, or in advance, of any change, or contemplated change in his legal identity, the name under which the

trades or his registered address. In such event the licensee shall furnish the Controller with a form DA 185 and the relevant annexure, duly completed, together with the original licence issued by the Controller of Customs and Excise.

- 36A.03 (a) Manufacturers of goods subject to duty specified in Section B of Part 2 of Schedule No. 1 may be exempted from licensing and payment of such duty if the value for excise duty purposes of such goods during the preceding calendar year did not exceed and is not likely to exceed R50 000 during a calendar year. Application for such exemption shall be made through the office of the Controller and shall be supported by a declaration of such value for duty purposes. Furthermore, suitable production and disposal records shall be kept, which shall be made available for inspection on demand by an officer.

Such exemption shall only be valid for one calendar year and renewal thereof shall be applied for on or before 31 December each year.

- (b) Notwithstanding the provisions of paragraph (a) duplicators of audio or video tapes who only duplicate such tapes for own use and not for sale or disposal in circumstances that constitute a business venture are exempted from licensing and payment of the duty specified in Section B of Part 2 of Schedule No. 1.

- 36A.04 (a) Every manufacturer of excisable goods of Section B of Part 2 of Schedule No. 1 and every owner of such excisable goods, manufactured for him partly or wholly from materials owned by such owners, shall present quarterly an account (form DA 75), together with any supporting documents, in respect of any goods removed from their premises which have been licensed as special customs and excise warehouses for the purposes of such excise duty.

- (b) The said account shall be presented to the Controller and the duty due paid to him on or before the 25th day of the month following the quarter to which the account relates. Such account shall be presented and the duty due paid before 15:00 hours on that day. Should the said day fall on a Saturday, Sunday or public holiday such payment shall be made on the preceding official working day.

RULES FOR SECTION 37A OF THE ACT

Special provisions in respect of marked goods and certain goods that are free of duty

Goods to be marked and marked goods

- 37A.01 (a) Only unmarked goods referred to in section 37A(2)(c)(ii) when marked by the addition of a marker by an approved licensee of an approved customs and excise warehouse as required by section 37A(2)(a) and prescribed in these rules shall constitute marked goods referred to in section 37A(2)(c)(i).
- (b) The marker shall be the substance supplied under the trade name Authentix A1 by Authentix Inc. which shall be so added in a proportion equal to or exceeding 20 milligrams of the marker per litre of the unmarked goods.
- (c) For the purposes of section 37A(2)(c)(iii) any goods shall be deemed to contain marked goods when such goods contain a proportion of such marker which is equal to or exceeds 1 milligram of the marker per litre.
- 37A.02 (a) Any imported unmarked goods intended to be marked and any imported goods which are free of duty as contemplated in section 37A(1)(a) shall be entered for storage in a customs and excise warehouse on forms SAD 500 (WH) and SAD 505.
- (b) When any quantity of imported unmarked goods have been marked such form SAD 500 shall be amended by voucher of correction reflecting the description and tariff heading or subheading and item for marked goods in respect of such quantity.
- (c) Such voucher of correction shall be supported by a declaration by the licensee of the customs and excise warehouse where the unmarked goods were marked similar in form and content to the declaration to be furnished in terms of paragraph (f).
- (d) (i) If any imported goods referred to in paragraph (a) are mixed with locally manufactured goods of the same class or kind in the

circumstances contemplated in section 37(7), such goods may be accounted for in accordance with the provisions relating to locally manufactured goods.

- (ii) In addition to the record required to be kept in terms of rules 37A.03(b), a licensee of a customs and excise warehouse shall keep additional records and stock accounts of unmarked goods and goods marked and aviation kerosene referred to in rule 37A.1 2, for accounting of all such goods manufactured, received or marked in, and removed from such warehouse.

- (e) For the purposes of section 37A(2)(b) –

- (i) any unmarked goods which have been marked and any other imported goods which are free of duty as contemplated in section 37A(1)(a) shall be deemed to be and referred to in these rules as specified imported goods for the purposes of application of sections 38(4) and 39(2A);
- (ii) in applying the provisions of section 38(4) and 39(2A) the rules relating to the removal of excisable mineral oils from a customs and excise warehouse shall *mutatis mutandis* apply to the removal from such warehouse of any marked goods or other goods which are free of duty as contemplated in section 37A(1)(a), whether specified imported goods or goods manufactured in the Republic except that -
 - (aa) the *mutatis mutandis* application of the provisions of rules 36.04, 36.05(a) and 36.06, in respect of any invoice issued for excisable mineral oils as provided in rule 27.31, shall be subject to the provisions of rules 37A.06 if the goods concerned are marked goods;
 - (bb) separate accounts and other documents relating to the removal of each of such goods shall be completed and presented to the Controller as required;
 - (cc) If specified imported goods are removed from such warehouse for rewarehousing, removal in bond or for export such goods shall be entered according to the provisions applicable to any such removal of dutiable imported goods;
 - (dd) a SAD 500 shall be presented to the Controller with each of the monthly accounts for such goods.

- (f) Every licensee of a customs and excise warehouse shall include a statement with every such account and bill of entry presented to the Controller in respect of marked goods declared as having been removed from such warehouse during the stated period that at the time of removal all such marked goods –
 - (i) were properly marked and contained a proportion equal to or exceeding 20 milligrams of the marker per litre of the unmarked goods as required by rule 37A.01;
 - (ii) did not have any substance present therein which or the colour of which could prevent or impede the detection of such marker;
 - (iii) did not have any substance present therein that could remove or neutralise such marker.
- 37A.03
- (a) The licensee of the customs and excise warehouse shall, before use, keep the marker –
 - (i) separate from all other substances and in a secured storage area; and
 - (ii) except when removed for immediate use, either in a tank or in other containers, in either case bearing or labelled with a description of the contents.
 - (b) Such licensee shall keep -
 - (i) a certified record of the quantity of the marker which is received, stored and used in which is recorded not later than the close of business on the working day following that on which the marker has been received and used -
 - (aa) the date of receipt, the person from whom received, the description and quantity of the marker received; and
 - (bb) the quantity of marker used each day or whenever marking takes place and the quantity in litres of unmarked goods to which those quantities of marker have been added;
 - (ii) a certified balanced stock account made up to the end of each calendar month showing the quantity and description of the marker which is stored for use or is in use at the time of stocktaking, the quantity used, and the quantity of unmarked goods marked with such marker.

- (c) Unless the Commissioner may otherwise allow, the record shall be kept at the said customs and excise warehouse.
 - (d) Such licensee shall keep such record available for at least three years from the date of the last entry therein for inspection on demand by an officer.
- 37A.04 (a) Marking of goods must be by one of the following methods –
- (i) in line on receipt into main storage;
 - (ii) in bulk direct into main storage;
 - (iii) in line on removal from main storage to segregated storage;
 - (iv) subject to such conditions as the Commissioner may in each case impose, by injector on delivery from the customs and excise warehouse.
- (b) The licensee of the customs and excise warehouse must ensure that equipment used for adding the marker to unmarked goods is -
- (i) maintained in good working order;
 - (ii) secured against interference;
 - (iii) regularly tested and recalibrated if necessary.
- 37A.05 Marked goods shall at all times be stored in tanks or containers separate from those tanks or containers used for the storage of unmarked goods.

Completion and keeping of documents

- 37A.06 (a) Any person who sells or disposes of, in any manner, whether or not for any consideration, except in respect of any transaction between one licensee and another as contemplated in the proviso to section 61(4), any marked goods in any transaction or series of related transactions, in which the total quantity exceeds 210 litres at any one time shall complete and issue an invoice, dated and serially numbered, which shall include at least the following –
- (i) the name or business name (if any) and address of the person who so sells or disposes of the marked goods;
 - (ii) the name or business name (if any) and address of the purchaser or other person to whom the marked goods are disposed of;
 - (iii) a description of other marked goods;

- (iv) a statement: “Contains Customs and Excise Marker”;
 - (v) the quantity of marked goods.
- (b)
- (i) Any invoice completed and issued in terms of this rule shall be kept by the purchaser or other person to whom the marked goods are disposed of and a copy thereof kept by the person who so sells or disposes of the marked goods.
 - (ii) Such invoice or copy thereof shall be kept for a period of at least three years after the date of dispatch of the marked goods during which period any such person shall keep available the said invoice or copy thereof for inspection on demand by an officer.
- 37A.07
- (a) Any person, except a licensee of a customs and excise warehouse, who acquires and stores or sells, disposes of, purchases or uses, or has under his control or in his possession a quantity of marked goods which exceeds 2500 litres at any one time shall keep proper accounting records relating to the storage and removal of such marked goods and any other goods which shall include at least the following –
- (i) the capacity of each storage tank or tanks;
 - (ii) the location of the tank or tanks;
 - (iii) if the tanks are joined, particulars as to how the tanks are joined and the total number of bowsers or outlets;
 - (iv) a description of the goods stored in each tank;
 - (v) number and date of each invoice, and quantity of goods received;
 - (vi) if the marked goods are sold or otherwise disposed of, as referred to in rule 37A.06, the quantity of marked goods so sold or disposed of and the number and date of each invoice issued;
 - (vii) if the marked goods are sold or otherwise disposed of without invoices where invoices are not required to be issued as envisaged by rule 37A.06, the total quantity of marked goods so sold or disposed of;
 - (viii) if the goods are used, the quantity used and every purpose of use;
 - (ix) a stock account, balanced monthly, of quantities of goods received, used and removed for any other purpose, including goods lost or destroyed.

- (b) Such person shall keep available such record for a period of at least three years after the date of acquisition, storage, sale, disposal, purchase or use of any marked goods for inspection on demand by an officer.
- (c) Any licensee of a customs and excise warehouse shall, in addition to the requirements in the Act or any rule relating to the storage of dutiable goods, keep such records in respect of marked goods as the Commissioner may require.

Sampling procedures and sealing of tanks and containers

37A.08 An officer who, for the purpose of Section 37A(5), has –

- (a) stopped any vehicle, mobile apparatus, tanker or tank trailer, shall complete form DA 37A(2) in respect thereof and of the person appearing to the officer to be the person for the time being in charge thereof;
- (b) entered any premises in order to examine a tank or other container shall complete form DA 37A(3) in respect of the said premises and of the person for the time being in charge of the part of the premises where the tank or other container is situated.

37A.09 (a) When an officer takes a sample of goods in terms of section 37A(5) –

- (i) from the tank of a vehicle, mobile apparatus, tanker or tank trailer, the officer shall, whenever reasonably practicable, do so in the presence of the person appearing to him to be the person for the time being in charge thereof;
- (ii) from any tank or other container on any premises, the officer shall, whenever reasonably practicable, do so in the presence of the person appearing to him to be the occupier of the premises or person for the time being in charge of the part of the premises where such tank or other container is situated;
- (iii) the officer shall analyse a portion of the sample taken and complete form DA 37A(1) and if after such analysis considers for reasons stated in such form that a sample should be analysed by a

designated person the remainder of the sample shall be dealt with as provided in paragraph (b);

- (iv) the officer shall issue a receipt thereof or, reflecting full particulars of such samples taken, duly signed and dated with an official customs and excise stamp, and the name of the said officer reflected in clear capital letters under his signature and hand it to the person referred to in paragraph (i) or (ii), as the case may be.

- (b) The remainder of the sample referred to in paragraph (a)(iii) shall at that time be divided into three parts. Each part shall comprise a quantity of not less than 100 millilitres, each bearing the same serial number, sealed and labelled with details of its contents, and -

- (i) the first part shall be delivered to the person referred to in paragraphs (a)(i) or (a)(ii), as the case may be, if that person requires it;
- (ii) the second part shall be retained by the officer for future comparison;
- (iii) the third part shall be forwarded for analysis by a designated person.

- (c) Where it is not reasonably practicable to comply with the requirements of paragraphs (a)(i), (ii) and (iv) and (b)(i) relating to the persons concerned, the officer taking the sample shall, by registered mail, or in person, notify the owner or person in charge of the vehicle or mobile apparatus or the occupier or the person in charge of the premises, as the case may be, that the sample has been taken and that one part thereof (and the receipt therefor) is available for delivery to him, if he requires it, at such time and place as may be specified in the notice.

- (d) Any designated person who has analysed a sample referred to in rule 37A.09(b)(iii) shall furnish a report to the Commissioner on form DA 37A(4).

- (e) For the purposes of ascertaining the presence of the marker in any sample, the officer or the designated person, as the case may be, shall use the method prescribed in form DA 37A(1) or DA 37A(4), as the case may be.

37A.10 (a) When an officer seals any tank or container, he shall –

- (i) use a customs and excise seal;
 - (ii) if reasonably practicable, do so in the presence of any person referred to in rule 37A.08(a) or 37A.08(b) as the case may be;
 - (iv) prepare a report with details of the reasons for sealing the tank or container.
 - (b) A customs and excise seal on any tank or container may only be broken by or under supervision of an officer for reasons stated in such report.
- 37A.11
- (a) Any person referred to in section 37A(7)(b)(ii) and any other person who uses marked goods, or marked goods mixed with or contaminated by other goods, for mixing or blending with other goods in the production of goods not capable of use as fuel in any engine, for own use or sale or disposal in any manner whether or not for any consideration, shall register as a producer of such goods, and no person shall so mix or blend such goods for such use, sale or disposal unless so registered.
 - (b) Any such mixed or blended goods may contain a lubricity agent, and for the purpose of this rule “lubricity agent” includes any contaminated or used mineral oil such as used lubricating oil, defective fuel oil, contaminated waste oil and the like.
 - (c) The provisions of rule 37A.06 shall *mutatis mutandis* apply to the sale or disposal by such registered producer of such mixed or blended goods in respect of invoices to be completed and issued, retained and kept, except that the statement referred to in rule 37A.06(a)(iv) shall read “not capable of use as a fuel in any engine”.
 - (d)
 - (i) The provisions of rule 37A.07 thereof shall *mutatis mutandis* apply to the record to be kept by the registered producer in respect of any marked goods or any marked goods mixed with or contaminated by other goods, as the case may be, received and used in such mixing or blending.
 - (ii) In addition such record shall reflect the proportion in which such marked goods are mixed or blended with other goods and shall in the stock account referred to in rule 37A.07(ix) include the

quantities or mixed or blended goods produced and so used, sold or disposed of.

- (e) Any consumer of goods produced as contemplated in this rule shall, unless the Commissioner otherwise determines, be exempted from complying with the provisions of rule 37A.12.

37A.12 (a) Subject to the provisions of rule 37A.11 no person shall be in possession of any marked goods for mixing with any lubricity agent, mix any marked goods with a lubricity agent or be in possession of or have under his control any marked goods mixed with a lubricity agent or otherwise deal with such goods as contemplated in section 37A(9)(a), unless –

- (i) such mixing takes place in the tank connected to the burners if used as a burning fuel or on the premises where the mixture is used if used for any other domestic or industrial application or such other place as the Commissioner may in exceptional circumstances allow;
- (ii) such mixture is solely used for domestic or industrial applications as a burning fuel in boilers, ovens, heaters or furnaces or as a mould release agent, or any other such application approved by the Commissioner;
- (iii) such person is registered where the quantity so mixed exceeds 2500 litres at any one time.

- (b) In addition to the record to be kept as required in terms of rule 37A.07(a), a daily record shall be kept of the invoice number and date and quantity of lubricity agent received, the quantity used, the relative proportions of marked goods and lubricity agent in any mixture and a stock account balanced monthly of quantities mixed and the quantity of the mixture used during the month concerned.

- (c) The provisions of rule 37A.07(b) shall apply *mutatis mutandis* in respect of any lubricity agent used or acquired for use in a mixture with marked goods.

37A.13 (a) For the purposes of section 37A(9)(a)(i) no person shall acquire or sell or dispose of in any manner, whether or not for any consideration, or be in possession of or have under his control, aviation kerosene, except –

- (i) for use or supply for use as fuel in aircraft;
 - (ii) if any such person who supplies fuel to aircraft, other than the licensee of a customs and excise warehouse, is registered as a supplier of aviation kerosene to aircraft (whether or not for supply to own aircraft).
- (b) Any such licensee or registered supplier shall -
- (i) complete and issue an invoice or flight receipt or stock requisition or delivery note for each quantity supplied with shall include at least -
 - (aa) a statement that the aviation kerosene is to be used solely as fuel in aircraft;
 - (bb) the name and address of the licensee or the name and address of the registered supplier who supplies the aviation kerosene;
 - (cc) if applicable the registered name and address of the supplier who acquired it;
 - (dd) the delivery address if it is not the same as the registered address;
 - (ee) when supplied for fuelling aircraft the registration number of the aircraft;
 - (ii) obtain a signed receipt for any such supply from the officer responsible;
 - (iii)
 - (aa) keep a copy of such invoice or flight receipt or stock requisition or delivery note for aviation kerosene supplied to any registered supplier for fuelling aircraft;
 - (bb) keep such invoice or flight receipt or stock requisition or delivery note issued in respect of any aviation kerosene acquired from any such licensee or other registered supplier;
 - (cc) keep the documents referred to in sub-paragraph (a) or (b), as the case may be, for a period of at least three years after the date of such supply during which period the said documents shall be kept available for inspection on demand by an officer.
- (c) The provisions of rule 37A.07 except paragraph (a)(vii) thereof shall *mutatis mutandis* apply in respect of any quantity of aviation kerosene stored or supplied to or by such registered supplier or licensee.

- (d) Any application in terms of section 37A(9)(e)(i) to dispose of aviation kerosene for any other purpose may be made through the nearest Controller and such goods shall be subject to such customs and excise control as the Controller may require.
- 37A.14 (a) No person other than a licensee of a customs and excise warehouse, or a person registered with the Commissioner, shall remove from the Republic to any other territory within the common customs area export from the Republic any marked goods or aviation kerosene.
- (b) For the purpose of such removal or export such goods shall be regarded as unmarked goods and such person shall furnish security in the form of a cash deposit or a surety bond as envisaged by rule 120.08.
- 37A.15 Any application to register in terms of these rules shall be made on the form obtainable from the nearest Controller and any application shall only be considered on compliance with the requirements therein specified and as may be determined by the Commissioner in each case.

RULES FOR THE MANUFACTURE, STORAGE, DISPOSAL, ACCOUNTING AND USE OF BIODIESEL

Definitions

- 37B.01 In these rules, any meaning ascribed to any word or expression in the Act, shall bear the meaning so ascribed and, unless the context otherwise indicates -

“**biodiesel**” means a biofuel as defined in Additional Note 1 to Chapter 38 of Part of 1 Schedule No. 1 to the Act;

“**commercial manufacturer of biodiesel**” means a person manufacturing biodiesel in a quantity exceeding that contemplated in rule 37B.04;

“**non-commercial manufacturer**” or “**non-commercial manufacturer of biodiesel**” means a person manufacturing biodiesel in a quantity not exceeding that contemplated in rule 37B.04.

Manufacturers of biodiesel to register or to register and license

- 37B.02 Any person who manufactures biodiesel on the date these rules come into operation or intends manufacturing biodiesel must apply on form DA 185 and the appropriate annexures -
- (a) if he or she qualifies as a non-commercial manufacturer of biodiesel, for registration as a non-commercial manufacturer of biodiesel in terms of section 59A and the rules thereto;
 - (b) if he or she is a commercial manufacturer of biodiesel -
 - (i) for registration as a commercial manufacturer of biodiesel in terms of section 59A and the rules thereto; and
 - (ii) for licensing of his or her manufacturing premises as a customs and excise manufacturing warehouse for the commercial manufacture of biodiesel in Category 1 or 2 as contemplated in rule 37B.16.
- 37B.03 (a) Unless the Commissioner otherwise requires, no security is required to be furnished by a person applying for registration as a non-commercial biodiesel manufacturer.
- (b) The provisions of rule 19A.02 shall apply *mutatis mutandis* to an application contemplated in rule 37B.02(b)(ii).

Commercial manufacturers of biodiesel to licence

- 37B.04 (a) Any person who manufactures or who expects that he or she will manufacture more than 300 000 liters of biodiesel per calendar year shall be regarded as a commercial manufacturer of biodiesel.
- (b) Application for such a licence must be made on form DA 185 and the relevant annexure and the provisions of rule 19A.02(a) shall apply *mutatis mutandis* to such an application.

Cancellation of biodiesel manufacturing licence

- 37B.05 The Commissioner may –
- (a) on application cancel a customs and excise manufacturing warehouse licence for the manufacture of biodiesel, where he or she is satisfied that the licensee will no longer -

- (i) manufacture biodiesel; or
- (ii) manufacture biodiesel in commercial quantities; and
- (b) return or refund any security if all obligations in terms thereof have been fulfilled.

Plants and machinery subject to a lien

- 37B.06 Any plant and machinery used for the manufacture of biodiesel are subject to a lien as contemplated in section 114(1)(aA)

Rules in respect of non-commercial biodiesel manufacturers

Manufacturing and keeping and submission of manufacturing records

- 37B.07 The manufacturing premises of a non-commercial manufacturer of biodiesel are not required to be licensed as a customs and excise manufacturing warehouse.
- 37B.08 Subject to rule 37B.22, biodiesel manufactured by a registered non-commercial manufacturer of biodiesel is exempted from payment of any excise duty specified in any item of Part 2A or any levy specified in any item of Part 5A or Part 5B of Schedule No. 1.
- 37B.09 In addition to the requirement to keep books, accounts and documents as contemplated in rule 59A.09(2), a non-commercial manufacturer of biodiesel must open a monthly biodiesel manufacturing record which must contain -
- (a) the name and registration number issued as contemplated in rule 37B.02;
 - (b) the month and year to which the record relates;
 - (c) the date of each manufacturing process;
 - (d) the quantity, per manufacturing process, of methanol, ethanol, catalyst, neutralizing agent, any other additives, vegetable oil and any other products used in that process;
 - (e) the quantity yield, per manufacturing process, of methanol, ethanol, glycerol, any other products and biodiesel produced from that process;
 - (f) in the case of a blend of biodiesel and distillate fuel, the quantity of biodiesel and the quantity of distillate fuel used in that blend and the quantity of the blended product; and

- (g) in the case where no biodiesel was manufactured during the month, a production figure reflected as “NIL”.
- 37B.10 The biodiesel manufacturing record contemplated in rule 37B.09 must be opened on the first day of each month and must be updated with the particulars required in paragraphs (c), (d), (e) and (f) of that rule after the completion of each manufacturing process undertaken during that month.
- 37B.11 A biodiesel manufacturing record must be -
- (a) closed off at the end of the last day of the month to which it relates;
 - (b) signed and dated by the non-commercial manufacturer; and
 - (c) delivered to the Controller within whose area of control the non-commercial manufacturer’s biodiesel manufacturing premises are located -
 - (i) in respect of the records for January to June of a year, by 14 July of that same year; and
 - (ii) in respect of the records for July to December of a year, by 14 January of the following year.
- 37B.12 Copies of monthly biodiesel manufacturing records, or such other reproductions thereof as the Commissioner may allow under section 101(1A), must be retained by a non-commercial manufacturer and kept available for inspection by an officer for a period of five years calculated from the end of the calendar year during which any such record was created.
- 37B.13 The Commissioner may cancel an exemption granted under rule 37B.08 where a non-commercial manufacturer -
- (a) manufactures more than 25000 liters of biodiesel per calendar month and more than 300 000 liters during a calendar year;
 - (b) fails to deliver a duly completed form DA 185 and the appropriate annexure to the Commissioner before the date specified in rule 37B.22;
 - (c) fails to open, properly complete, submit or keep a monthly biodiesel manufacturing record as required in these rules.
- 37B.14 Any manufacturer of biodiesel whose exemption from the payment of duties and levies has been cancelled by the Commissioner as contemplated in rule 37B.13 must, unless the Commissioner agrees to extend the period -

- (a) within 14 days from the date on which such exemption was cancelled, apply to the Commissioner to have his or her premises licensed as a customs and excise manufacturing warehouse; and
- (b) account, in the manner prescribed for a commercial manufacturer of biodiesel, for the duties and levies on all biodiesel manufactured by him or her in excess of the quantity referred to in rule 27B.13(a) during the calendar year.

Rules in respect of commercial biodiesel manufacturers

Liability for duty and accounting

- 37B.15
- (a) A commercial manufacturer of biodiesel is liable for the duty and levy specified in any item of Part 2A and Part 5A or Part 5B of Schedule No. 1 in respect of all biodiesel manufactured by such a manufacturer in his or her licensed customs and excise manufacturing warehouse as contemplated in section 19(6).
 - (b) Duty must be brought to account on biodiesel so manufactured as specified in these rules.

Categories of commercial biodiesel manufacturers

- 37B.16
- A commercial manufacturer of biodiesel shall be regarded as a -
- (a) Category 1 manufacturer of biodiesel, if he or she manufactures biodiesel exclusively for consumption in the Republic; or
 - (b) Category 2 manufacturer, if he or she in addition to manufacturing for consumption in the Republic -
 - (i) exports biodiesel; or
 - (ii) removes biodiesel to a BLNS country.

Rules for Category 1 manufacturers of biodiesel

- 37B.17
- No Category 1 biodiesel manufacturer may remove biodiesel from his or her licensed customs and excise manufacturing warehouse without first completing an invoice or dispatch delivery note containing the information specified in rule 19A.04(a)(i) and (iii) in respect thereof.

- 37B.18 Any such invoice or delivery note shall be deemed to be due entry for home consumption of such biodiesel.
- 37B.19 (a) The duty and levy on biodiesel removed as contemplated in rule 37B.17 must be accounted for monthly on a DA 162 account.
- (b) A DA 162 account, together with the amount payable, must be submitted to reach the Controller in whose area of control a manufacturer's customs and excise manufacturing warehouse is licensed on or before the 25th day of the month following the closing of the accounting period.
- (c) The accounting period referred to in paragraph (b) in respect of each month starts on the first day of a month and closes on the last day of that month.

Rules for Category 2 manufacturers of biodiesel

- 37B.20 The general rules for section 19A and the rules numbered 19A.4 concerning the manufacture, storage, clearance, payment of duty and controlled movement of fuel levy goods shall apply *mutatis mutandis* to Category 2 manufacturers of biodiesel.

Blending of biodiesel with distillate fuel

- 37B.21 With the exception of biodiesel blended by a non-commercial manufacturer, biodiesel may only be blended with distillate fuel where the biodiesel and distillate fuel have been entered or deemed to have been entered for home consumption as prescribed in these rules and the rules numbered 19A and 19A.4, as applicable.

Implementation of biodiesel legislation

- 37B.22 (a) Section 37B and these rules come into operation on 1 April 2006 and every manufacturer of biodiesel is liable for the duty on, and the administrative requirements in respect of, biodiesel manufactured from that date.
- (b) A person who already manufactures biodiesel on 1 April 2006 is allowed until 28 April 2006 to deliver a duly completed application together with

supporting documents for registration or an application for registration and a licence as prescribed in rule 37B.02.

- (c) Notwithstanding paragraph (b), any record to be kept and any accounting period or requirement prescribed in these rules shall commence on 1 April 2006.
- (d)
 - (i) Subject to compliance with paragraph (b), any person who qualifies for registration as a non-commercial manufacturer of biodiesel and who manufactures biodiesel on or after 1 April 2006 will be exempted from payment of duty as prescribed in rule 37B.08.
 - (ii) Failure to register as required in these rules will result in such a manufacturer being liable for payment of duty on biodiesel manufactured from 1 April 2006.
- (e) Every commercial or non-commercial manufacturer must on issuing an invoice or delivery document when selling or otherwise disposing of biodiesel manufactured before 1 April 2006, endorse such invoice or document “manufactured before 1 April 2006”.

CHAPTER V

CLEARANCE AND ORIGIN OF GOODS: LIABILITY FOR AND PAYMENT OF DUTIES

RULES FOR SECTION 38 OF THE ACT

Entry of goods and time of entry

38.01 Only the forms prescribed in these rules shall be used for the entry of goods in terms of the provisions of the Act.

38.02 Except as otherwise provided, full particulars as indicated on such prescribed forms shall be furnished by the person entering such goods and he shall produce to the Controller such evidence as the Controller may require in each case to substantiate any particulars shown on such entry.

38.03 Application for release of any of the goods enumerated in paragraphs (ii), (iii) and (v) of subsection 38(1)(a) shall be made to the Controller on form DA 306.

38.04 All bills of entry and duplicates thereof shall be completed in a clearly legible manner, and the Controller may refuse to accept any bill of entry if he considers that any part of it is illegible or that it has not been properly completed.

38.05 Any person entering any goods for any purpose in terms of the provisions of the Act shall also furnish in addition to such particulars as are necessary for the calculation of the duty on such goods the following -

- (a) such particulars of such goods as may be required for the compilation of trade returns in terms of section 117;
- (b) in addition to the transaction value as defined in section 66 the actual price charged in respect of such goods by the exporter plus all the costs and charges incidental to the sale in question and to placing such goods on board ship or on any vehicle ready for exportation and any agent's commission (calculated on such price, costs and charges) in respect of such goods; and
- (c) the C.I.F. and C. (cost, insurance, freight and charges) price. Such price shall be calculated by the addition of insurance, freight (from the port of exportation to the port of importation in the Republic) and commission where applicable to the price as calculated in terms of sub-paragraph (b) above.

38.06 Any duty payable or not rebated in terms of any tariff heading, tariff item or item of any Schedule to the Act shall be entered in the appropriate duty column on the same line on the relative bill of entry as the said heading or item to which it relates and the nature of any other payment in respect of any goods declared on any bill of entry shall be stated in the column relating to tariff heading or item on the same line as the amount of such payment.

38.07 Any person who has entered any goods under the provisions of the Act or any subsequent owner of such goods or any licensee of any customs and excise warehouse in which such goods are warehoused or any person acquiring such goods under the provisions of Schedule No. 3, 4, 5 or 6 or any other person dealing with or in or consuming such goods shall, if he becomes aware at any time that such goods were

incorrectly entered, advise the Controller forthwith and produce to the Controller any documents or any other evidence in his possession.

Release of entered imported goods or goods for export

38.08 (a) For the purposes of the rules numbered 38.08 to 38.12, unless otherwise specified or the context otherwise indicates –

“**declarant**” means a person who makes due entry of goods as contemplated in sections 38 and 39;

“**declarant release message**” means the electronic communication by a declarant of all the information contained in an electronic message to a release authority;

“**electronic message**” means an electronic communication in accordance with the provisions of section 101A, the rules made thereunder, the user agreement and user manual from the Commissioner to–

- (i) a declarant who entered by means of electronic communication any–
 - (aa) imported goods or goods for import, including goods for storage in a customs and excise warehouse, or goods for export as contemplated in sections 38 and 39; or
 - (bb) any goods for removal from a customs and excise storage warehouse;or
- (ii) the declarant and the release authority, for release or detention of the goods concerned;

“**goods**” means imported goods, goods for export, as may be applicable, whether or not containerised, or goods in a customs and excise storage warehouse, but excluding accompanied personal effects of a passenger or a member of a crew, that–

- (i) in the case of imported goods, have been carried by a ship or vehicle from a port or place outside the Republic to a port or place in the Republic and have been unloaded at that port or place;
- (ii) in the case of goods for export, are goods at a port or place in the Republic ready for loading on to a ship or vehicle for carriage to a port or place outside the Republic;
- (iii) in the case of goods in a customs and excise storage warehouse, are goods which after due entry are removed from such warehouse for any purpose authorised by this Act.

“**release**” means that for the purposes of the Act or any other law goods are allowed to pass from the control of the Commissioner as contemplated in section 107(2)(a);

“**release authority**” means –

- (i) any master, pilot or other carrier in respect of any goods for which such a master, pilot or carrier is liable until lawful delivery of the goods, after due entry thereof to an importer or his agent as contemplated in section 44(5)(a);
- (ii) a container operator approved by the Commissioner in terms of section 96A in respect of goods contained in a FCL container to be released from a container terminal contemplated in section 6(1)(hA) or a container depot contemplated in section 6(1)(hB);
- (iii) the depot operator of a container depot licensed in terms of section 64A, in respect of any goods contained in a LCL container or FCL (groupage) container defined in the rules for section 8 to be released from a such a container depot;
- (iv) the degrouping operator who is a licensee of a degrouping depot licensed in terms of section 64G, in respect of any air cargo to be released from such depot;
- (v) the licensee of a customs and excise storage warehouse in respect of any goods released from a customs and excise storage warehouse contemplated in section 19, 19A or section 21; or

“**the Act**” includes any provision of “this Act” as defined in the Customs and Excise Act, 1964.

- (b) In these rules any word or expression to which a meaning has been assigned in the rules for section 8 of the Act bears the meaning so assigned.
- (c) Subject to section 12 and the rules made thereunder, section 18(1)(d) or (e) or 38(3) and rule 38.14, any provision relating to customs and excise storage or manufacturing warehouses, as may be applicable, no –
 - (i) imported goods landed in the Republic may be delivered from the place of landing;
 - (ii) goods may be loaded on a ship or vehicle for export at the place of shipment;
 - (iii) goods may be removed from a customs and excise storage warehouse,

except upon due entry and after release is authorised as prescribed in these rules.

- (d) If any person delivers, loads or removes any goods contemplated in paragraph (c) before release thereof is authorised, such goods shall, if the Controller so requires, at the expense of the person concerned, be returned to the place from which the goods were so delivered, loaded or removed or delivered to any other place the Controller may determine.

Electronic release or detention of goods

38.09 (a) The Commissioner may authorize the release or detention of all or any part of goods entered by a declarant by transmitting an electronic message releasing or detaining such goods to both the declarant and the relevant release authority in control of such goods.

- (b) Where the declarant and the release authority have both received an electronic message from the Commissioner authorizing the release of all or part of any goods entered by the declarant, such goods may only be delivered, loaded or removed, as may be applicable, subject to compliance with the provisions of subparagraphs (c) and (d).

- (c) (i) Where the goods have been electronically entered by a declarant that declarant –

- (aa) must print out the complete electronic release message and present it to the release authority in order to obtain release of the goods; or

- (bb) in instances where he or she and the release authority are able to electronically communicate with each other, transmit a declarant release message to the release authority concerned in order to obtain release of the goods.

- (ii) Where the goods–

- (aa) have been manually entered by a declarant; or

- (bb) is under the control of a release authority that is not a registered user as contemplated in section 101A, the goods may only be delivered, loaded or removed, as may be applicable, subject to compliance with the provisions of rule 38.10.

- (d) A release authority in control of goods for which it has received an electronic message may only deliver, load or remove goods or cause such goods to be

delivered, loaded or removed if the electronic message received by it confirms that -

- (i) the goods may be released;
 - (ii) no SARS computer printed release notification is required; and
 - (iii) subject to paragraphs (f) and (g), all the information contained in the electronic message corresponds to—
 - (aa) all the information reflected on the printed release message contemplated in rule 38.09(c)(i)(aa) presented by the declarant and the goods concerned; or
 - (bb) all the information contained in the declarant release message received from the relevant declarant and the goods concerned
- (e) Electronic release is not valid and the release authority may not release the goods where the release message does not comply with the requirements of paragraph (d)(iii).
- (f) (i) A declarant may apply to the Commissioner to be exempted from the requirement contemplated in paragraph (c)(i)(aa) or (bb) where the declarant and the release authority are related to each other in business, by shareholding or in any other manner that the Commissioner may determine.
- (ii) The exemption contemplated in subparagraph (i) shall be subject to such conditions as the Commissioner may consider reasonably necessary to ensure proper compliance with these rules.
- (g) Where an exemption referred to in rule 38.09(f) is granted the release authority may deliver, load or remove goods or cause such goods to be delivered, loaded or removed on notification by the declarant that he or she has received an electronic message releasing the goods.

Goods not released or detained by electronic message

38.10 (a) Where goods are not released or detained by electronic message as contemplated in rule 38.09 –

(i) release of any duly entered goods may be authorised by the Controller only by –

(aa) endorsing any copy of the relevant SAD form to that effect;

(bb) issuing a computer printed release notification on a SARS letterhead; or

(cc) endorsing any other document bearing the SAD form number and date to that effect;

and signing and date-stamping any such copy of the SAD form, release notification or other document, as the case may be; or

(ii) goods may be detained in whole or in part by the Controller by –

(aa) endorsing any copy of the relevant SAD form;

(bb) issuing a computer printed stop or detain notification on a SARS letterhead; or

(cc) endorsing any other document bearing the SAD form number and date to that effect,

signing and date-stamping any such copy of the SAD form, stop or detain notification or other document, as the case may be.

(b) The SAD form, release notification or other document is only issued to the person who entered the goods on the relevant SAD form.

Detention and release of detained goods

38.11 (a) A detention notification contemplated in rule 38.09(a) or in rule 38.10(a)(ii) may specify that such goods are –

(i) detained at the place where they are kept after landing or for loading or in the customs and excise warehouse as the case may be; or

(ii) to be removed to a place indicated by the Controller.

(b) Goods detained –

(i) shall, while so detained, not be removed or otherwise be dealt with except –

(aa) as authorised by the Controller; or

- (bb) if the goods are detained only for the purposes of any authority administering any other law as contemplated in section 113(8), as ordered by such authority.
- (ii) may only be delivered if release is authorised by –
 - (aa) the Controller on form DA 74;
 - (bb) the authority contemplated in subparagraph (i)(bb); or
 - (cc) an electronic release message that releases goods previously detained as contemplated in rule 38.09(a) or in rule 38.10(a)(ii).

Keeping of records

- 38.12 (a) A declarant and release authority must keep all electronic messages, declarant release messages, or any other documents referred to in these rules for a period of five years from the date that that message was transmitted or that document generated.
- (b) Any such electronic message, declarant release message, or any other documents must be produced to a customs officer on demand.

38.13 Any person entering goods for export shall, if required to do so by the Controller, produce all documents relating to the goods including the transport document at such time as may be specified by the Controller.

38.14 In the case of goods being exported from a place in the Republic where there is no customs and excise office, the Controller nearest to such place may, in respect of such goods as he considers necessary and under such conditions as he may impose, permit an exporter, either specially or generally, to present a bill of entry for export of –

- (a) goods not ex warehouse (form SAD 500), together with the relevant documents, to the railway or air transport official at that place; and
- (b) goods specified in Section B of Part 2 of Schedule No. 1 manufactured in the Republic and exported ex warehouse by rail by the licensed manufacturer, together with the relative invoice to the railway official at that place.

Such official shall ensure that the requirements of the Act are complied with before authorising the exportation of the goods in question and shall forward the original of the bill of entry concerned to the said Controller.

Entry of goods for export:

Completion of the box in respect of Financial Data on the SAD 500 and the box in respect of Consignment / Transaction Particulars on form SAD 554

- 38.15 (a) The Financial Data must be entered in the applicable box therefor on the SAD 500 and the Consignment / Transaction Particulars in the applicable box therefor on the SAD 554 by all exporters or their duly instructed clearing agents.
- (b) The particulars which must be entered as specified in respect of each field are the following:

UCR (Unique Consignment Reference) field

- (i) (aa) Each exporter must generate a UCR (Unique Consignment Reference) for each consignment.
- (bb) The UCR particulars must have the following features:
- (A) It must have a minimum of 12 and a maximum of 35 characters.
 - (B) The first character must reflect the last digit of the calendar year in which the export takes place, for example, if the export takes place in 2003, the first character will be reflected as 3.
 - (C) The next two characters must be used for the UNLOCODE country code (as defined in the user manual referred to in paragraph 2 of the Agreement contained in the rules numbered 101A) of the country from where the exports originated.
 - (D) The next eight characters must be used for the customs client number as allocated to the exporter by the South African Revenue Service.
 - (E) The last 24 characters must reflect the unique reference number of the document generated by the exporter that must link the export proceeds to the export consignment, for example, an invoice number, consignment number or order number, and may be between one and 24 characters in length.
 - (F) Where a consignment is to be exported to the consignee in more than one stage, the same UCR reference must be stated on each related SAD 500.

Transaction (Trans) Value and Currency Code

- (ii) (aa) "Transaction value" or "Trans Value" means the full foreign currency proceeds paid or payable by the purchaser to the exporter for the export consignment.
"Consignee" includes the purchaser or importer in the country of destination.
"Currency code" means the SWIFT currency code applicable to the foreign currency proceeds as supplied by the South African Reserve Bank.
- (bb) The transaction value particulars must have the following features:
 - (A) The transaction value is the full monetary amount of the foreign currency proceeds for the complete export transaction.
 - (B) Where a consignment is to be exported to the consignee in more than one stage, the same transaction value must be stated on each related SAD 500.
 - (C) The currency code must consist of three characters and must be inserted in the space next to the transaction value.

Advance Payment (Adv Payment) field

- (iii) (aa) The Adv Payment field must be completed in respect of payments received in advance for the export consignment;
- (bb) the currency code must consist of three characters and must be inserted in the space next to the advance payment;
- (cc) where no payments are received in advance, zeros must be inserted in this field.

Credit Terms

- (iv) (aa) Credit terms refer to the period between the date of shipment and the anticipated date for the receipt of outstanding payments.
- (bb) In this field the exporter must specify the number of days between the date of shipment and the anticipated date for the receipt of outstanding payments.

- (cc) The minimum length is one character and the maximum length is three characters.
- (dd) Where no credit terms apply, or no foreign exchange accrues, “NEP” must be inserted in this field.

(c) Cost of repairs

- (i) Where -
 - (aa) a charge is made for repairs, the fields in the Export Value (FOB) box and in the Consignment / Transaction box must be completed as may be applicable;
 - (bb) no charge is made, NEP must be inserted in the Credit terms field as required by paragraph (b)(iv)(dd);
 - (cc) the bill of entry import number and date in respect of the goods imported for repairs and the Controller’s office where it was processed must be declared in the Endorsement Column.

- 38.16 (a) (i) For the purposes of this rule -
- “**accounting period**” means the period within which imports or exports of a continuous transmission commodity must be accounted for and entered on a bill of entry or SAD form;

“**continuous transmission commodity**” or “**CTC**” means -

- (a) natural gases and their derivatives and other liquids and gases transported through a pipeline; or
- (b) electricity transported over an electric transmission line.
- (ii) Any provision for imports and exports or importer or exporter, includes, unless otherwise specified, in relation to a CTC transported to or from the Republic, the supply of a CTC to or from any other Member State of SACU.

(b) Notwithstanding anything to the contrary contained in any rule -

- (i) Any CTC imported or exported must be accounted for and entered or declared as prescribed in this rule.
- (ii) (aa) Every importer or exporter must keep a proper accounting record of any CTC imported into or exported from the Republic;
- (bb) imports and exports must be measured at the places, at the times and by using the methods approved by the Commissioner;

- (cc) provided goods are imported directly to the point where quantities are measured, the quantity of a CTC measured as contemplated in subparagraph (bb) shall, for the purposes of section 10(1)(c), be deemed to be the quantity imported into the Republic at the time any quantity measured is so measured; and
 - (dd) provided goods are exported directly from the point where quantities are measured, the quantity of a CTC measured as contemplated in subparagraph (bb) shall be deemed to be the quantity exported from the Republic at the time any quantity measured is so measured.
- (iii) The accounting period for the relevant CTC must operate, as may be applicable -
- (aa) from the time on any day in any month of first commencement of importation into or exportation from the Republic until 24:00 on the last day of that month and thereafter from 00:00 of the first day of every month until 24:00 of the last day of such month; or
 - (bb) such monthly period as the Commissioner may determine.
- (iv) On a date approved by the Controller, which must be within a period of 25 days after the end of the accounting period contemplated in subparagraph (iii), the importer or exporter must -
- (aa) at the place of entry specified in item 200.03(ij) in the Schedule to the Rules, make due entry or declare in terms of the Act of the quantity of CTC imported or exported during that accounting period; and
 - (bb) in the case of imports -
 - (A) submit separate bills of entry or SAD forms in respect of each supplier from which a CTC was received during the period concerned;
 - (B) pay any duty and value-added tax due during the hours of business prescribed in item 201.10 of the Schedule to the Rules for acceptance of bills of entry or SAD forms and for receipts and other revenue;
 - (C) if payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the period and hours specified in this subparagraph;

- (cc) in the case of exports, separate bills of entry or SAD forms must be submitted in respect of each consignee to which a CTC was transported during the period concerned.
- (v) (aa) All bills of entry or SAD forms submitted to the Controller must be accompanied by invoices, a summary of the accounting record required to be kept as contemplated in subparagraph (b)(i) and such other documents as the Commissioner may require.
- (bb) All invoices submitted, must be serially or transaction numbered and dated and reflecting at least the -
 - (A) name and address of the importer or exporter;
 - (B) a full description of the nature and characteristics of the goods;
 - (C) total quantity;
 - (D) where applicable, the price charged for each unit;
 - (E) total invoice price; and
 - (F) in the case of imports or exports, the period applicable.
- (c) Where a CTC is transported to or from the territory of a SACU Member State, form SAD 500, in terms of the rules numbered 120A, must be submitted together with an invoice as contemplated in subparagraph (b)(v), to the Controller for each accounting period within the time prescribed in subparagraph (b)(iii).
- (d) Books, accounts and documents relating to the procedures prescribed in this rule must be kept together with other relevant import and export documents as contemplated in rule 59A.09(2).

RULES FOR SECTION 38A OF THE ACT

Definitions

- 38A.01 For the purposes of these rules, tariff heading 99.92 of Part 1 of Schedule No. 1 and any form to which these rules relate, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and unless otherwise specified or the context otherwise indicates—

“bonded goods” means any—

(a) imported goods, whether liable to duty or free of duty; or

(b) dutiable locally-produced goods,

that are entered for storage in accordance with the provisions of the Act for storage and stored in a licensed special customs and excise warehouse for supply as stores and spares and equipment to foreign-going ships and aircraft;

“equipment” means goods, excluding stores and spares, and tools temporarily imported, of a removable but not a consumable nature, for use on board a foreign-going ship or aircraft during voyage, including survival equipment, accessories such as lifeboats, life saving devices, furniture, apparel for ship or aircraft crew and similar goods;

“exporter” means an exporter who supplies stores or spares and equipment to foreign-going ships or aircraft and who is accredited as contemplated in section 64E;

“foreign-going aircraft” means—

(a) an aircraft at an airport, landing strip or other place in the Republic if that aircraft—

(i) has arrived at that place in the course of a voyage from outside the common customs area to a destination or destinations inside the Republic, whether that place is that destination or one of those destinations or a stopover on its way to that or any of those destinations and is scheduled to depart from the Republic to a final destination outside the common customs area; or

(ii) is scheduled to depart from that place in the course of a voyage to a final destination outside the common customs area, whether that place is its place of departure to that final destination or a stopover or one of several stopovers in the Republic or the common customs area from where it departs in the course of that voyage;

(b) an aircraft in the airspace above the Republic on a voyage referred to in paragraph (a)(i) or (ii); or

- (c) an aircraft on a voyage from a place outside the Republic or from any place in any other country in the common customs area to a final destination outside the common customs area—
 - (i) passing through the airspace above the Republic; or
 - (ii) making a stopover at any airport, landing strip or other place in the Republic; and
- (d) an aircraft contemplated in paragraph (a), (b) or (c) that is used in the transport of persons for remuneration or the industrial or commercial transport of goods, whether or not for remuneration;

“foreign-going ship” means—

- (a) a ship at a seaport, harbour or other place in the Republic if that ship—
 - (i) has arrived at that place in the course of a voyage from outside the common customs area to a destination or destinations inside the Republic, whether that place is that destination or one of those destinations or a stopover on its way to that or any of those destinations and is scheduled to depart from the Republic to a final destination outside the common customs area; or
 - (ii) is scheduled to depart from that place in the course of a voyage to a final destination outside the common customs area, whether that place is its place of departure to that final destination or a stopover or one of several stopovers in the Republic or the common customs area from where it departs in the course of that voyage;
- (b) a ship in the territorial waters of the Republic on a voyage referred to in paragraph (a)(i) or (ii); or
- (c) a ship on a voyage from a place outside the Republic or from any other country in the common customs area to a final destination outside the common customs area—
 - (i) passing through the territorial waters of the Republic; or
 - (ii) making a stopover at any place in the Republic; and
- (d) a ship contemplated in paragraph (a), (b) or (c) that is used in the transport of persons for remuneration or the industrial or commercial transport of goods, whether or not for remuneration;

“goods in free circulation” means goods which are not subject to any customs or excise procedure contemplated in the Act;

“licensee” means a licensee of a special customs and excise storage warehouse licensed for the storage of goods for supply as stores or spares and equipment to foreign-going ships or aircraft and who is accredited as contemplated in section 64E;

“stores” means any bonded goods and goods in free circulation taken on board a foreign-going ship or foreign-going aircraft intended to be used—

- (a) by travellers and crew on board the ship, or aircraft during that voyage;
- (b) as duty and tax-free items for sale on board the ship, or aircraft; or
- (c) for the operation and maintenance of the ship, or aircraft on or during that voyage but excluding spares and equipment and fuel levy goods;

“spares” means parts which are to be used in the course of repair or maintenance as replacements on a foreign-going ship or aircraft ;

“the Act” includes any provisions of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“VAT” means value-added tax leviable in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

“VAT Act” means the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

Application of provisions

- 38A.02 (a) These rules apply to bonded goods and where specified, goods in free circulation supplied by a licensee or exporter, as the case may be, to foreign-going ships and aircraft as stores or spares and equipment as contemplated in section 38A.

- (b) Any goods not regarded as stores, spares and equipment as contemplated in section 38A and these rules must be entered on form SAD 500 before delivery to foreign-going ships or aircraft.

Application for a licence, registration in terms of section 101A and for accreditation

- 38A.03 For the purposes of section 38A, application for–
- (a) a special customs and excise storage warehouse; or
 - (b) registration as a registered user for the purposes of electronic communication in accordance with section 101A and the rules made thereunder, must be made on form DA 185 and the relevant annexure; or
 - (c) accredited client status as contemplated in section 64E and the rules made thereunder, must be made on form DA 186.

Storage of imported goods free of duty

- 38A.04 A licensee may store imported goods free of duty in a licensed special customs and excise storage warehouse for supply as stores or spares and equipment to foreign-going ships and aircraft.

Persons who may issue a dispatch and delivery note

- 38A.05 Dispatch and delivery notes may only be issued by a licensee or exporter referred to in section 38A(2) for supplying stores or spares and equipment to foreign-going ships and aircraft.

Contents of dispatch and delivery note

- 38A.06 Dispatch and delivery notes shall be serially numbered and dated and shall include at least–
- (a) in respect of–
 - (i) an exporter, the registered name and physical address, customs and excise client number and VAT registration number; or

- (ii) a licensee, the licensed name, physical address and number of the special customs and excise storage warehouse, customs and excise client number and VAT registration number;
- (b) aircraft registration number, vessel identification number, vessel name, flight or voyage number (whichever is applicable);
- (c) a true and correct description of the goods with a clear distinction made between bonded goods and goods in free circulation;
- (d) the exact quantity of goods;
- (e) the date of removal of the goods; and
- (f) provision for—
 - (i) acknowledgement of receipt of the goods;
 - (ii) a statement of the exact quantity and the full description of any goods not received or not accepted and returned; and
 - (iii) a declaration by the master, pilot or duly authorised officer that the particulars regarding goods received or not accepted and returned are true and correct.

Delivery of dispatch and delivery notes to the Controller

- 38A.07 A copy of the dispatch and delivery note shall be submitted electronically by e-mail by the licensee or exporter to the Controller at least one hour prior to the supply of goods to a foreign-going ship or aircraft.

Dispatch and delivery notes to accompany supply of goods and amendment or cancellation of a dispatch and delivery note

- 38A.08 (a) (i) Goods supplied as stores or spares and equipment shall be accompanied by the original and a duplicate of the dispatch and delivery note;
- (ii) the provision on the original and duplicate dispatch and delivery note referred to in rule 38A.06(f) must be duly completed by the master, pilot or duly authorised officer; and
- (iii) the completed original must be kept by the licensee or exporter, as may be applicable, and the completed duplicate by the master or pilot.
- (b) Any dispatch and delivery note—
- (i) of which the acknowledgement of receipt reflects that any goods entered thereon have not been accepted or delivered, shall be regarded as amended to that extent; or
- (ii) not acted upon, must be cancelled by drawing a diagonal line through the original and any copies and endorsing “cancelled” and the reasons for cancellation thereon.
- (c) The full particulars of such amendment or cancellation must, as soon as reasonably possible, be submitted electronically by e-mail, to the Controller.

Return of stores, spares and equipment

- 38A.09 (a) The licensee or exporter must issue a receipt in a form approved by the Commissioner in respect of any goods returned.

- (b) The receipt must contain at least—
- (i) the dispatch and delivery note number and date;
 - (ii) the particulars stated in rule 38A.06(b), (c) and (d);
 - (iii) the reason for return of the goods;
 - (iv) provision for a declaration by the master, pilot or duly authorised officer that the particulars are true and correct and acknowledgement by the licensee or exporter of receipt of the goods.
- (c) The licensee or exporter must in respect of such a return—
- (i) without delay—
 - (aa) advise the Controller electronically by e-mail; and
 - (bb) make appropriate adjustments to stock records;
 - (ii) keep a separate account of goods returned; and
 - (iii) in a supporting statement to the validating bill of entry referred to in rule 38A.10 reflect the adjustments to the quantity and export value of all goods returned.

Subsequent validating clearance

Time of entry

- 38A.10 In respect of each foreign-going ship or aircraft supplied with stores or spares and equipment, a licensee or exporter must submit electronically to the Controller a form SAD 500 for the purposes of the validating bill of entry export as contemplated in section 38A(2)(c) accounting for each dispatch and delivery note issued in the case of—
- (a) (i) stores supplied for use by travellers or crew on board the foreign-going ship or aircraft during that voyage; and
 - (ii) spares and equipment supplied for use in the operation or maintenance of that ship or aircraft on or during that voyage,
- within seven official working days after the date of departure of that ship or aircraft;

- (b) stores supplied for sale on board a foreign-going ship or aircraft which is scheduled to return to the Republic, within seven official working days after the return of that ship or aircraft;
- (c) a ship or aircraft contemplated in paragraph (b) not returning within a period of 30 days after the date of departure due to *vis major* or other circumstances the Commissioner considers exceptional, within seven official working days after expiry of that period.

Declaration of stores, spares and equipment under Part 1 of Schedule No. 1 on the validating bill of entry

- 38A.11 (a) Stores, spares and equipment supplied to a foreign-going ship or aircraft by issuing of a dispatch and delivery note must be declared by the licensee or exporter under Part 1 of Schedule No. 1 on the validating bill of entry as follows:
- (i) Goods in free circulation supplied as stores must be declared under the appropriate heading in Chapter 99 in accordance with the Notes to the Chapter; and
 - (ii) all other stores, spares and equipment, including bonded goods, must be declared under the appropriate subheading of Part 1 of Schedule No. 1.

Keeping of books, accounts and documents

- 38A.12 (a) For the purposes of section 101A and the rules made thereunder, and notwithstanding anything to the contrary in any rule contained, every licensee or exporter must—
- (i) create accounting records that utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for the activities to which these rules relate;

- (ii) keep proper books, accounts and documents and any data created by a computer of all transactions relating to the activities contemplated in section 38A and these rules, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required in respect of any customs procedure regulating those activities;
 - (iii) include in such books, accounts and documents any relevant requirements prescribed in any provision of this Act in respect of a special customs and excise storage warehouse and the export of goods; and
 - (iv) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions contemplated in subparagraph (ii).
- (b) Such books, accounts, documents and data must include, as applicable–
- (i) proper and separate accounting records of each class or kind of goods in which is recorded daily goods obtained, stored and supplied to or returned from any foreign-going ship or aircraft;
 - (ii) copies of all documents relating to goods obtained, all dispatch and delivery notes in numerical order, goods returned and payments received and made;
 - (iii) copies of forms SAD 500 and supporting documents contemplated in rules 38A.09 and 38A.10; and
 - (iv) any other documents the Commissioner may specify.

Implementation arrangements

38A.13 After a period of 90 days from the date these rules are published, no person, except a licensee of a special customs and excise warehouse, shall be allowed to deal with any bonded goods as contemplated in these rules.

RULES FOR SECTION 39 OF THE ACT

Importers' clearing instructions

39.01 In respect of the clearing instructions prescribed in subsection 39(1)(c) the Controller may, in the case of -

- (a) repetitive clearances of stock ex a licensed customs and excise warehouse and provided the circumstances and purpose of each subsequent clearance is identical to the first one, accept copies of the original written clearing instruction;
- (b) a single consignment being cleared on more than one bill of entry (split consignment), accept a photostat copy of the written clearing instruction used to clear the first part of the consignment;
- (c) airfreight, imports by road overland and clearances on behalf of ship's chandlers and ships repairers ex licensed customs and excise warehouses, accept importers' telephonic or faxed instructions;
- (d) goods destined for an inland centre but cleared at the coast, accept a faxed instruction; or
- (e) project work, where the main contractor has not yet set up an office in the Republic, but goods have already been shipped, accept a letter of instruction or faxed instructions from the contractor overseas.
- (f) all clearances, accept importer's instructions submitted electronically

39.02 Where the purpose code on an original bill of entry is to be substituted the provisions of rule 40.02 shall apply.

39.03 Importers shall be exempt from the issue of clearing instructions in respect of -

- (a) unaccompanied baggage;
- (b) household effects of item 407.06; or
- (c) goods which need not be entered in terms of section 38(1)(a)

Production of statements relating to invoices

39.04 Any invoice or number of invoices presented to the Controller in respect of goods imported into the Republic shall be accompanied by a statement reflecting a summary of all the invoices relating to such goods including the total value of each invoice to which such statement relates, as well as all the charges (including freight, insurance and commission) and full particulars of the marks and numbers of the containers or packages concerned.

Production of true copies of invoices

39.05 True copies of invoices in respect of goods entered in terms of any heading in Schedule No. 1 to the Act (whether or not such goods are also cleared under rebate of duty in terms of any item of Schedule No. 3 of Schedule No. 4 to the Act) shall, as the Controller may require, at the time of entry of such goods be produced to him for retention.

Completion and presentation of clearing and related documents

39.06 For the purposes of these rules “clearer” means any importer, exporter or agent for an importer or exporter who delivers bills of entry for processing to the Controller.

39.07 The bills of entry required to make entry of goods imported into or exported from the Republic are as prescribed in paragraph 202.01 of the Schedule to the rules.

39.08 The clearer shall, before any bill of entry is delivered to the place indicated by the Controller, insert in the field provided therefore the customs and excise client number issued to the clearing agent, importer or exporter, as the case may be. Application for such a number shall be made to the Office on a form DA 185 (Application form: Licensing / Registration of Customs and Excise Clients) and the applicable annexure(s), and any subsequent change or contemplated change of any of the particulars furnished or a request for cancellation of such client number shall be reported on such form.

39.14 (a) Any bill of entry delivered to the Controller in terms of section 39(1) shall be delivered during the hours of business as prescribed in paragraph 201.20 of the Schedule hereto for the purpose of acceptance of bills of entry and for the receipt of duties and other revenue.

- (b) Any such bill of entry received by the Controller after such hours of business shall be deemed to have been delivered on the following official working day.

39.15 For the purposes of section 39(1)(a), a code for each purpose to be specified on a bill of entry and other additional codes required to be so specified, are included in a table published on the SARS website as contemplated in rule 00.06

RULES FOR SECTION 40 OF THE ACT

Examinations without prejudice of goods no longer under Customs and Excise control

40.01 For the purposes of section 40(3), applications to the Controller for the examination without prejudice of goods no longer under customs control shall -

- (a) be in writing;
- (b) confirm that –
 - (i) the full consignment concerned is on hand and is identifiable with the goods referred to on the relevant invoice(s) and bill of entry;
 - (ii) the outer containers in which such goods were imported can be produced or a reasonable explanation can be furnished why such containers are no longer available;
- (c) include an undertaking that -
 - (i) if the Controller does not agree to examination at the importer's premises such goods will be delivered to the State warehouse or other place approved by the Controller, within 14 days of approval of the application;
 - (ii) such examination will be arranged by the applicant to take place within seven days of receipt of the goods in the State warehouse or at such other place;
 - (iii) such goods will be removed from the State warehouse or such other place within three days after the date of examination;
 - (iv) State warehouse rent will be paid at the prescribed rates; and
 - (v) any applicable special or extra attendance, transport and travelling expenses will be paid in accordance with rules 120.02 to 120.07.

Substitution of bills of entry

40.02 For the purposes of section 40(3)(a)(ii) –

- (a) vouchers of correction shall not be used to transfer the entry of goods from one schedule to the Act to another;
- (b) the substituting bill of entry shall be delivered to and accepted by the Controller before the original bill of entry is cancelled by voucher of correction; and
- (c) a voucher of correction cancelling the original bill of entry shall indicate how the goods concerned were accounted for and reflect the substituting bill of entry number and date.

RULES FOR SECTION 41 OF THE ACT

Requirements regarding invoices

41.01 Any person entering any goods imported or to be imported shall produce to the Controller at the time of presenting the bill of entry in question an original invoice from the supplier of the goods showing all particulars required in terms of these rules.

- 41.02 (a) Invoices issued in respect of the sale, disposal, supply or transfer of excisable goods shall be in such form for each class or kind of such goods as the Controller may require.
- (b) All invoices in respect of goods specified in Section B of Part 2 of Schedule No. 1 intended for export or for incorporation in an unused condition in other such goods shall show the duty paid to the Office separately.
- (c) If invoices in respect of the sale, disposal, or supply of goods specified in Section B of Part 2 of Schedule No. 1 show the duty specified in Section B of Part 2 of Schedule No. 1 separately such duty shall represent the exact amount paid to the Office.

41.03 Any person entering any goods for export shall produce to the Controller at the time of presentation of the bill of entry in question, an invoice containing the particulars as the Controller may require.

41.04 An invoice required in terms of the provisions of rule 41.01 shall not be taken as satisfying the requirements of that rule if it does not contain, in addition to any proprietary or trade name of such goods, a full description of the nature and characteristics of such goods together with such particulars thereof as are required to assess the duty due and to compile trade statistics.

41.05 Any particulars on any invoice in respect of any imported goods shall be in one of the official languages.

RULES FOR SECTION 43 OF THE ACT

Lien for unpaid freight and charges

43.01 For the purposes of section 43(3) any notification of a lien on goods for freight and charges shall -

- (a) be in writing;
- (b) identify the goods concerned; and
- (c) specify and prove the amount of unpaid freight and charges.

Claim for unpaid freight and charges

43.02 Any claim for unpaid freight and charges shall be supported by –

- (a) a letter from the claimant resident in the Republic, indemnifying the Office against any relative claim by any other party; and
- (b) documentary proof of the amount of unpaid freight and charges;

Claims for overplus

43.03 Any claim for overplus by the owner of the goods concerned shall be supported by -

- (a) proof of ownership
- (b) a letter from the owner or his agent, resident in the Republic, indemnifying the Office against any relative claim by any other party;
- (c) a statement as to whether the claimant has been compensated, either wholly or partly, by any other person for the loss of the goods, and, if so, the full name and address of such person;
- (d) the supplier's invoice for the goods;
- (e) a letter from the consignee of the goods, if applicable, stating that he has no objection to the payment of any overplus to the owner, and
- (f) the relative import permit if importation of the goods could not have been legally effected without such a permit.

RULES FOR SECTION 44 OF THE ACT

Liability for duty

44.01 For the purposes of these rules Damaged, Ullaged or Broached Package Report hereinafter referred to as the Ullaged Report means any account in the form completed by any person or authority and approved by the Controller in respect of any package landed from a ship or unloaded from a container in a discrepant condition (including leaking packages or with missing contents).

44.02 (a) If any package landed from a ship is leaking or if the whole or part of its contents is missing or if the package is in a damaged condition or the mass of any package differs from the invoiced or manifested mass thereof, the contents of such package (hereinafter referred to as a discrepant package), ascertained by examination as stated below, shall subject to the provisions of section 44(1), be accepted as being all the goods imported in such package, provided –

- (i) such package is examined as early as possible after landing but not later than expiry of the time referred to in section 38(1), or removal of such package from the transit shed where it was deposited on landing, whichever is the earlier, or, if not so deposited, before removal from the wharf or other place where it was landed;
 - (ii) such package is examined, in the case of examination of the package after due entry thereof, by the importer and in the case of examination of the package before due entry thereof, by the master of the ship from which it was landed, in the presence of and in conjunction with a representative of the port authority;
 - (iii) an account of the contents of the package (or of the missing goods) by the port authority or the Ullaged Report is furnished to the Controller by the importer or the master, as the case may be;
 - (iv) the account by the port authority or the Ullaged Report is legible, identifies the missing goods, is signed and dated by the representative of the port authority and the importer or master, as the case may be, who conducted the examination;
 - (v) the account by the port authority or the Ullaged Report specifies the identifying marks, numbers and other particulars of each package examined and specifies the actual contents (or the missing goods) of each package separately; and
 - (vi) there is no evidence that the missing goods (or any portion thereof) entered into consumption in the Republic.
- (b) The provisions of paragraph (a) of this rule shall *mutatis mutandis* apply in respect of any discrepant package landed from an aircraft and for that purpose of any reference in the said paragraph to the port authority, to the master of the ship and to an account by the port authority or the Ullaged Report shall be deemed to be a reference to the Controller, to the pilot of the aircraft and to the account taken by the Controller of the contents of such package, respectively: Provided that the contents of such discrepant

package shall be accepted as being all the goods imported in that package even when the duty on the goods missing therefrom does not exceed R25.

- (c) The provisions of paragraph (a) of this rule shall *mutatis mutandis* apply in respect of any discrepant package landed from a railway train in which such package was imported and for the purpose any reference to the master of the ship shall be deemed to be a reference to the carrier of the package.
- (d) The provisions of paragraph (a) of this rule shall *mutatis mutandis* apply in respect of any discrepant package imported by road and for the purpose any reference in the said paragraph to the port authority, to the master of the ship, to the time of examination and to any account by the port authority or the Ullaged Report shall be deemed to be a reference to the Controller at the place where the conveying vehicle entered the Republic, to the carrier of the package, to the time while such vehicle is under the control of the Controller at such place and to the account taken by the Controller of the contents of such package, respectively.
- (e) The provisions of paragraph (a) of this rule shall *mutatis mutandis* apply in respect of any discrepant package imported by post and for that purpose of any reference in the said paragraph to the port authority, to the time of the examination and to any account by the port authority or the Ullaged Report shall be deemed to be a reference to any postal official in whose custody the package is prior to delivery, to the time while such package is in the custody of such official and to an account of the missing goods endorsed by such official on the relative postal manifest respectively: Provided that the contents of such discrepant package shall be accepted as being all the goods imported in that package even where the duty on the goods missing there from does not exceed R25.
- (f) The provision of paragraphs (a) to (d) to this rule shall *mutatis mutandis* apply in respect of any examination conducted in terms of the provisions of rule 11.01 and for that purpose any reference to the port authority and to an account by the port authority or the Ullaged Report shall be deemed to be a reference to the Controller and to the account taken by him of the contents of such package, respectively.

(g) The provisions of paragraph (a) of this rule shall only apply to a discrepant package at the first place of landing thereof in the Republic and shall not apply to any discrepant package after removal thereof in bond.

44.03 (a) Examination, mass-measuring, repairing or removal of any package in terms of rule 44.01 shall be subject to supervision by the Controller and he may at any time demand re-examination of the package concerned.

(b) Any applicable special or extra attendance, transport and travelling expenses as referred to in rules 120.02 to 120.07 shall be payable.

44.04 Packages in transit or marked for another place and which are damaged or from which the whole or part of the contents is missing, shall not be placed on board any ship or vehicle for removal to another place until they have been examined by the Controller, their contents ascertained and they have been properly repaired by the principal or his agent and sealed by the Controller.

RULES FOR SECTION 45 OF THE ACT

Presentation of clearing and related documents

45.01 For the purposes of section 45(2)(b), any bill of entry returned to the clearer by the Controller for adjustment shall retain the date of delivery as the time of entry for home consumption for five days after the day on which it was returned for the first time, provided it is redelivered, so adjusted, to the Controller within the five days after the day on which it is returned. In calculating such five days, the first day (day of rejection) shall be excluded and the last day shall be included, unless the last day falls on a Sunday or public holiday in which case the first day and every such Sunday or public holiday shall also be excluded.

45.02 Any bill of entry which has been rejected by the Controller shall only be redelivered by the clearer once and then only if it is redelivered within the five days specified in rule 45.01.

RULES FOR SECTION 46 OF THE ACT

Origin of goods

46.01 In the calculation, for the purposes of section 46, of the cost of materials produced and labour performed in respect of the manufacture of any goods in any territory, only the following items may be included-

- (a) the cost to the manufacturer of materials wholly produced or manufactured in the territory in question and used directly in the manufacture of such goods; and
- (b) the cost of labour directly employed in the manufacture of such goods.

46.02 In the calculation, for the purposes of section 46, of the production cost of any goods in any territory, only the following items expended in the manufacture of such goods may be included -

- (a) the cost to the manufacturer of all materials;
- (b) manufacturing wages and salaries;
- (c) direct manufacturing expenses;
- (d) overhead factory expenses; and
- (e) cost of inside containers.

46.03 The following charges, which are charges incurred subsequent to the completion of the manufactured goods, may not be included in the production cost -

- (a) outside packages (including zinc linings, tarred paper, etc., in which the goods are ordinarily exported from the territory) and expenses in connection with the packing of goods therein;
- (b) manufacturer's or exporter's profit, or the profit or remuneration of any trade, broker or other person dealing with the article in its finished condition;

- (c) royalties;
 - (d) carriage, insurance, etc., from the place of production or manufacture in the territory to the port of shipment or other place of final despatch; and
 - (e) any other charges incurred subsequent to the completion of the manufacture of the goods.
- 46.04 (a) Except in respect of goods contemplated in paragraph (d), any person declaring any goods imported or to be imported for home consumption or for warehousing in a customs and excise warehouse and subsequent clearance for home consumption, shall submit to the Controller together with the SAD form a declaration of origin (form DA 59) duly completed by the supplier of such goods, and certified as contemplated in paragraph (b), where -
- (i) the goods are subject to -
 - (aa) any anti-dumping, countervailing or safeguard duty prescribed in Schedule No. 2; or
 - (bb) a restriction prescribed in terms of any other law when imported from a specified country or specified countries; and
 are imported from a country or countries other than the country or countries or a supplier in respect of which such duty or restriction is prescribed;
 - (ii) any other rule specifies imports in respect of which form DA 59 is required.
- (b) A form DA 59 submitted by such person must be certified in the space provided thereon by the authority responsible for certification of the form in the country of export.
- (c) Where the requirements of paragraphs (a) or (b) have not been complied with in respect of -
- (i) goods subject to any anti-dumping, countervailing or safeguard duty prescribed in Schedule No. 2, release of the goods will only be considered against suitable security to cover such duty;
 - (ii) goods subject to a restriction prescribed in terms of any other law, the goods will be detained in terms of section 113(8).

- (d) A form DA 59 is not required in respect of goods contemplated in the rules where a certificate of origin prescribed in the rules for section 49 is produced for such goods, except if the origin criterion is of a lesser requirement as that prescribed in section 46(1) of the Act.

46.05 No rule

(Deleted by Notice R.539 published in GG 37806 on 11 July 2014)

46.06 Excisable goods and goods specified in Schedules Nos. 3, 4, 5 or 6 to the Act and produced or manufactured in the Republic shall be excluded from the provisions of section 46(1) of the Act.

RULES FOR SECTION 46A OF THE ACT

Non-reciprocal preferential tariff treatment of goods exported from the Republic on compliance with the provisions of origin and other requirements specified in any enactment defined in section 46A(1).

Part 1

Preferential tariff treatment of textile and apparel articles imported directly into the territory of the United States of America from the Republic as contemplated in the African Growth and Opportunity Act (the AGOA).

46A1.01 (a) The rules numbered 46A1 are rules contemplated in section 46A(4)(b) in respect of textile and apparel articles exported from the Republic and imported into the customs territory of the United States of America in accordance with the provisions of sections 112 and 113 of the African Growth and Opportunity Act contained in Title 1 – Extension of Certain Trade Benefits to Sub-Saharan Africa – of the Trade and Development Act of 2000 of the United States of America and other relevant enactment contemplated in the definition thereof in section 46A(1).

(b) Any expression used in these rules with reference to the African Growth and Opportunity Act (the AGOA) or other relevant enactment shall, unless the context otherwise indicates, have the meaning assigned thereto in the said AGOA or enactment or relevant provisions of the Act or as defined in these rules.

(c) The expression -

“beneficiary sub-Saharan African countries”, means the following countries and any other countries that may be designated as “beneficiary sub-Saharan African countries” for the purposes of the AGOA by the President of the United States of America:

Republic of Benin

Republic of Botswana

Republic of Cape Verde

Republic of Cameroon
Central African Republic
Republic of Chad
Republic of Congo
Republic of Djibouti
State of Eritrea
Ethiopia
Gabonese Republic
Republic of Ghana
Republic of Guinea
Republic of Guinea-Bissau
Republic of Kenya
Kingdom of Lesotho
Republic of Madagascar
Republic of Malawi
Republic of Mali
Islamic Republic of Mauritania
Republic of Mauritius
Republic of Mozambique
Republic of Namibia
Republic of Niger
Federal Republic of Nigeria
Republic of Rwanda
Democratic Republic of São Tomé and Príncipe
Republic of Senegal
Republic of Seychelles
Republic of Sierra Leone
Republic of South Africa
Republic of South Sudan (South Sudan)
Kingdom of Swaziland
United Republic of Tanzania
Republic of Uganda
Republic of Zambia;

“certificate of origin”, means the certificate of origin, used for the purposes of preferential tariff treatment under the African Growth and Opportunity Act prescribed in 19 CFR 10.214 and item 202.00 of the

Schedule to the Rules which, in the case of the form prescribed in the Schedule to the Rules, is numbered DA 46A1.01 in the column reserved for the official use of the South African Revenue Service;

“customs authorities”, means in respect of the Republic, the Commissioner, or according to any delegation in these rules, the Manager: Origin Administration, the Controller or any other officer;

“customs territory of the US”, means the 50 States and the District of Columbia and Puerto Rico;

“customs value”, means the value of any imported goods calculated or determined in accordance with the provisions of section 65, 66, 67 and 74A;

“enactment”, means enactment as defined in section 46A(1) and includes the AGOA;

“exporter”, means a registered exporter as contemplated in section 46A(6);

“goods”, except if the content otherwise indicates, includes the textile and apparel articles referred to in the AGOA;

“Harmonized Tariff Schedule of the US” or “HTS”, means, for the purposes of establishing the equivalent tariff subheading (to the 6-digit level) in Part 1 of Schedule No. 1 subject to any meaning ascribed to any expression in any provision of origin in any enactment or these rules, the provisions of Part 1 of Schedule No. 1, except national subheadings or additional section or chapter notes and the rates of duty, applicable to the classification of any goods in any chapter or heading or subheading, and for the purposes of interpretation of Part 1 of Schedule No. 1, includes application of the Explanatory Notes to the Harmonized System as required in terms of section 47(8)(a);

“headings and subheadings”, means the headings (4-digit code) and subheadings (5- or 6-digit code) of Part 1 of Schedule No. 1;

“lesser developed beneficiary sub-Saharan African countries”, means the following countries and any other countries that may be designated as “lesser developed” for the purposes of the AGOA by President of the United States of America:

Republic of Benin
Republic of Cape Verde
Republic of Cameroon
Central African Republic
Republic of Chad
Republic of Congo
Republic of Djibouti
State of Eritrea
Ethiopia
Republic of Ghana
Republic of Guinea
Republic of Guinea-Bissau
Republic of Kenya
Kingdom of Lesotho
Republic of Madagascar
Republic of Malawi
Republic of Mali
Islamic Republic of Mauritania
Republic of Mozambique
Republic of Niger
Federal Republic of Nigeria
Republic of Rwanda
Democratic Republic of São Tomé and Príncipe
Republic of Senegal
Republic of Sierra Leone
Kingdom of Swaziland
United Republic of Tanzania
Republic of Uganda
Republic of Zambia;

“manufacturer”, means a registered manufacturer as contemplated in section 46A(6) and includes for the purposes of the AGOA, depending on the context, a “producer”;

“NAFTA”, referred to in section 113(b)(1) of the AGOA, means the North American Free Trade Agreement entered into between the United States, Mexico and Canada on 17 December 1992 as defined in section 112(e) of the AGOA;

“19 CFR 10”, refers to part 10 of the customs regulations contained in the Code of Federal Regulations published by the Department of the Treasury in the Federal Register, Volume 65, No. 194 on 5 October 2000 (as amended by the regulations published in the Federal Register, Volume 68, No. 55 on 21 March 2003), of which sections 211 to 217 and supplementary information thereon contained in the said Part 10 and sections 112 and 113 of the AGOA specifically relate to textile and apparel articles which may be allowed preferential tariff treatment under the AGOA;

“origin”, “originate” and/or “originating status”, relates to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in any enactment, including the AGOA, 19 CFR 10, Annex 401 to NAFTA, section 334 of the Uruguay Round Agreement Act of the US, and the application of provisions of customs Regulations 19 CFR 102.21 which implemented section 334;

“producer”, when used in connection with the AGOA and any document required by the US, includes a person that grows, mines, harvests, manufactures, processes or assembles goods or any combination thereof (Article 519 of NAFTA);

“shipment”, includes any consignment of textiles or apparel articles exported to an importer in the US by post;

“textile and apparel articles”, refers to the textile and apparel articles to which the provisions for preferential tariff treatment in section 112 of the AGOA and customs regulations 19 CFR 10 relate;

“US”, means the United States of America; and in relation to imports of textiles and apparel articles from the Republic, includes the customs territory of the United States of America;

“visa stamp”, means the AGOA Textile and Apparel Visa Stamp used to issue the visa and of which a specimen imprint is contained in rule 46A1.05;

“visa system”, means, for the purposes of section 113(a)(1) of the AGOA, the procedures prescribed in these rules in respect of the issuance of a visa.

- (d) Subject to section 3(2), any power, duty or function contemplated in section 46A(4), is delegated in terms of section 46A(4)(b)(v) to the extent specified in these rules to the Manager: Origin Administration, the Controller or the Officer: Origin Administration or any officer designated to exercise such power or perform such duty or function.
- (e) Any insertion in brackets below any rule refers to a provision in the enactment on which the rule is based.
- (f) Determinations by the United States Trade Representative (the USTR) of countries that satisfy the requirements of sections 113(a) and 113(b)(1)(B) of the AGOA which the USTR has caused to be published in the Federal Register as contemplated in paragraph (4) of Proclamation 7350 of 2 October 2000 published in Federal Register Volume 65, No. 193 on 4 October 2000 are the following countries and any other countries in respect of which the USTR may cause such determinations to be so published from time to time:

Republic of Ethiopia

Republic of Kenya

Kingdom of Lesotho

Republic of Madagascar

Republic of Mauritius

Republic of South Africa

Kingdom of Swaziland

46A1.02 Certificate of origin and application for visa forms

- (a) (i) The certificate of origin and the application for a visa, respectively numbered DA 46A.101 and DA 46A1.01(a), which must be completed by exporters when exporting goods for the purposes of the AGOA, are inserted in the Schedule to the Rules.
- (ii) The certificate of origin and the application for a visa, the export bill of entry and supporting documents shall be delivered for processing at the office of the Controller at any place prescribed in item 200.03 (paragraphs (g) and (h)) of the Schedule to the Rules, provided it is a place nearest to the place of business of the exporter unless the Manager: Origin Administration otherwise determines.
- (iii) The following codes are used in the lettering of the visa stamp in respect of the places prescribed in paragraphs (g) and (h) of item 200.03 of the Schedule to the Rules:

Place	Codes
Beit Bridge	BBR
Bloemfontein	BFN
Cape Town	CTN
Cape Town International Airport	DFM
Durban	DBN
Durban International Airport	LBA
East London	ELN
Germiston	GMR
Johannesburg	JHB
Johannesburg International Airport	JSA
Kimberley	KBY
Lanseria International Airport	LSA
Lebombo	KOM
Mossel Bay	MOS
Paarl	PRL
Pietermaritzburg	PMB

Port Elizabeth	PEZ
Port Elizabeth International Airport	HFV
Pretoria	PTA
Richards Bay	RIC
Upington	UPT

(iv) The numerical sequence (1 to 9) which is used in the visa stamp for the designated preference grouping has been inserted on the application for a visa next to each alphabetical sequence (A to I) used for the preference grouping on the certificate of origin.

(b) (i) The provisions in these rules in respect of the certificate of origin and the issuance of a visa apply only to textile and apparel articles which originate in, and are exported from, the Republic.

(ii) Where an exporter imports for export any such textile or apparel articles which are claimed to have originated in any other beneficiary country or lesser-developed beneficiary country the certificate of origin and the visa must be issued in such country.

46A1.03 Registration of exporter or manufacturer

(a) Every exporter and manufacturer of textile and apparel articles for the purposes of the AGOA shall be registered and shall submit a completed form DA 185 together with -

(i) in the case of the exporter, a completed Annexure DA 185.4A2 and exporter's application for registration (DA 46A1.02 incorporated in Section A thereof); and

(ii) in the case of the manufacturer, a completed Annexure DA 185.4A4 and manufacturer's application for registration (DA 46A1.03 incorporated in Section A thereof).

(b) If the exporter is also the manufacturer of the goods concerned both the forms DA 46A1.02 (incorporated in Section A of Annexure DA 185.4A2) and DA 46A1.03 (incorporated in Section A of Annexure DA 185.4A4) must be completed.

- (c) The completed and signed application shall be submitted to the Manager: Origin Administration, to whom the powers under section 46A(6) are delegated.

46A1.04 Exportation of goods for the purposes of the AGOA

- (a)
 - (i) The certificate of origin shall be completed and signed in accordance with the instructions specified on the reverse of the form.
 - (ii) Completion of a certificate of origin and application for a visa is conditional on the exporter holding and being able to produce on demand all necessary evidence that the goods comply with the provisions of origin for the preference group declared on the certificate.
 - (iii) In terms of 19 CFR 10.216(b)(1) to (3) it is required that the certificate must be –
 - (aa) in writing or must be transmitted electronically pursuant to any electronic data interchange system authorised by US customs for that purpose;
 - (bb) signed by the exporter or by the exporter's authorised agent having knowledge of the relevant facts;
 - (cc) completed either in the English language or in the language of the country from which it is exported. If the certificate is completed in a language other than English, the importer must provide to Customs upon request a written English translation of the certificate.
 - (iv) The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic.
 - (v)
 - (aa) Subject to the provisions of rules 46A1.06 and 46A1.08, the exporter shall complete and sign a certificate of origin in

respect of every shipment and each preference group of textile and apparel articles for which an importer in the US intends claiming preferential tariff treatment under the AGOA.

- (bb)* The customs code number of the exporter and the producer (manufacturer) must be inserted in the block for official use, by the exporter.
- (vi) Where the exporter is not the producer of the article, that exporter may complete and sign a certificate of origin on the basis of:
 - (aa)* reasonable reliance on the producer's written representation that the article qualifies for preferential treatment, or
 - (bb)* a completed and signed certificate of origin for the article voluntarily provided to the exporter by the producer. (19 CFR 10.214(a), AGOA section 113(b)(1) and Article 501 of NAFTA).
- (vii) The descriptions in respect of the preference groups on the certificate of origin and the application for a visa are merely summaries of the US provisions and it is the duty of the exporter to ascertain the precise qualifying requirements from the various enactments, in particular Customs Regulations 19 CFR 10 and the relevant origin provisions, and if necessary, from the importer in the US or the US Customs Service.
- (viii)
 - (aa)* The certificate of origin and the visa will be allocated different numbers electronically when the export documents are processed.
 - (bb)* The Officer: Origin Administration must insert the certificate of origin number on the certificate and both numbers on the application for a visa in the respective blocks for official use printed on the forms.
- (b)
 - (i) An exporter may authorise only a licensed clearing agent to complete and sign the certificate of origin and application for a visa.

- (ii) The authorisation must be completed on the exporter's own letter headed paper and confirm full details of the agent's name, physical and postal address, telephone and facsimile numbers and full name(s) of the staff who will complete and sign the said forms.
 - (iii) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each shipment and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin and other requirements for the preference group concerned.
 - (iv) The letter of authority shall be submitted together with each completed certificate of origin and application for a visa and will be retained by the Controller.
- (c) Commercial invoices must -
- (i) be serially numbered and the number and date quoted in Block 4 of the certificate of origin and application for a visa;
 - (ii) describe the goods with sufficient detail to enable them to be identified and for the purposes of determination of the tariff subheading to the 6-digit level;
 - (iii) reflect the applicable tariff subheading which must correspond with the subheading (up to the 6-digit level) on the export bill of entry;
 - (iv) contain reference numbers or other particulars according to which the goods can be readily identified in the exporter's records;
 - (v) state the preference group number according to the application for a visa;
 - (vi) when both preference group goods and other goods are packed together, contain -

- (aa) a full description and the tariff subheading in respect of the other goods which must be marked with an asterisk; and
 - (bb) the following statement: “Goods marked * on the invoice are not AGOA preference group goods and are not covered by the visa”;
- (viii) be completed in respect of each preference group of textile and apparel articles contained in a shipment.
- (d) Where a consignment consists of various preference groupings the commercial invoice for each grouping which is required to be completed in terms of rule 46A1.04(c)(viii), must reflect appropriate cross references to the other invoices for the goods comprising the shipment.

46A1.05 Application for and issuance of a visa

- (a) (i) The following documents must be submitted with the completed application for a visa:
 - (aa) completed bill of entry export, bill of lading, air waybill or other transport document, the commercial invoice, and the certificate of origin (where applicable) completed and signed by the exporter or the duly authorised agent as contemplated in rule 46A1.04; and
 - (bb) copies of such documents for retention by the Controller in addition to any copies required in terms of other export clearing procedures as the Controller may determine.
- (ii) Where a certificate of origin is issued, the application for a visa must reflect the same original signature and contain the same particulars in the corresponding blocks as the certificate of origin, except that -
 - (aa) Block 4 must contain the numerical identifier of the certificate of origin preference grouping and the line reference on the export bill of entry;
 - (bb) the total quantity and unit of quantity in the shipment must be inserted in brackets below the description of the goods in Block 5, for example, 510 doz.

- (iii) A visa is required and an application must be completed in respect of each preference group of textile and apparel articles contained in a shipment exported for the purposes of claiming any preferential tariff treatment under the AGOA.
- (iv) Whenever a certificate of origin is issued for multiple shipments as contemplated in rule 46A1.06 the exporter must -
 - (aa) submit a copy of the certificate of origin with the application for a visa in respect of each shipment exported subsequently to the first shipment for which the original certificate of origin was produced;
 - (bb) endorse the number of the certificate of origin in the block for official use on the application form.
- (v) Specimen imprint of visa

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AGOA VISA

Visa No: - ZA _____

Grouping: _____

08 March 2000

Quantity: _____

Signature: _____



- (b) (i) If the application is approved by the Officer: Origin Administration the officer shall stamp the front of the original and a copy of the commercial invoice with the visa stamp and insert within the visa stamp impression, which shall be in blue ink, the following –
 - (aa) the visa number which will consist of one numeric digit for the applicable preference group according to the designated preference groups numbered 1 – 9 (which each sequentially corresponds with preference groups 1A – 9-I of the certificate of origin), the two-character alpha code ZA, followed by a six-digit numerical serial number identifying the shipment which is electronically allocated at the office of the Controller where the goods are entered for export;
 - (bb) the correct grouping, the total quantity in whole numbers and unit of quantity, for example, “grouping 5 – 510 doz”.
- (ii) Decimals or fractions of quantities are not acceptable. Quantities must be stated within the stamp as follows:
 - (aa) in groupings 1 to 8, all apparel must be stated in dozens, except for -
 - (A) men’s, boys, women’s or girls’ suits which must be stated in numbers; and
 - (B) panty hose, tights, stockings, socks, other hosiery, gloves, mittens and mitts, all of which must be stated in dozen pairs;
 - (bb) (A) where quantities are required to be stated in dozens, the number stated must be a whole number;
 - (B) if the quantity in the grouping is less than one half dozen, it must be rounded down (a quantity of 4 dozen and 4 pieces should therefore be stated as 4 dozen);
 - (C) if the quantity in the grouping is a half dozen or greater it must be rounded up (a quantity of 4 dozen and 6 pieces should therefore be stated as 5 dozen);

- (D) if the quantity in the grouping is less than a half dozen, it must be stated as 1 dozen (a quantity of 3 pieces or 6 pieces should therefore be stated as 1 dozen);
 - (E) the methods specified in subparagraphs (A) to (D) are also applicable to quantities which must be stated in dozen pairs as required in terms of subparagraph (aa)(B).
- (cc) Where items in the same grouping are mixed, such as suits (which require number) and shirts (which require dozen) or shirts and pants (which both require dozen), a separate quantity must be shown for each of the items (apparel under grouping 1 should therefore show separate quantities such as, 105 suits and 10 dozen shirts or 10 dozen shirts and 12 dozen pants).
- (dd) In respect of goods of grouping 9, the quantity stated must be the usual quantity required for those goods -
 - (A) if rugs or handloomed fabric, it should be stated in square meters;
 - (B) if wall hanging, it should be stated in square meters;
 - (C) if apparel, it should be stated as required in grouping 1 to 8; or
 - (D) if household furnishings, it should be stated in kilograms.
- (iii) Such officer must sign the visa in the space provided thereon.
- (iv) The visa must be properly completed and no amendments are allowed, as specified in paragraph (d)(ii)(cc).
- (c)
 - (i) The particulars entered on the visa must agree with the corresponding particulars entered on the application for a visa and on the certificate of origin whenever the certificate or a copy thereof is required to be submitted in terms of these rules.
 - (ii) The visa stamp must be used only to stamp the commercial invoice for goods exported for claiming preferential tariff treatment in terms of the AGOA and only such stamp shall be used for such purpose.

- (d) (i) The original visaed commercial invoice and the certificate of origin (where applicable) will be returned for submission to the importer in the US while the copy of the visaed invoice will be retained by the Controller. The original visaed invoice is required to enter the shipment in the US when claiming preferential tariff treatment as contemplated in the AGOA.
- (ii) Any visa issued is subject to the following conditions and procedures prescribed by the US Customs Service:
 - (aa) if the quantity indicated on the visa is less than that of the shipment, only the quantity shown on the visa will be eligible for preferential tariff treatment;
 - (bb) if the quantity indicated on the visa is more than that of the shipment, only the quantity of the shipment will be eligible for preferential tariff treatment and the excess cannot be applied to any other shipment;
 - (cc) the visa will not be accepted and preferential tariff treatment will not be permitted if the visa number, date of issuance, authorised signature, preference group, quantity and the unit of measure are missing, incorrect, illegible or have been crossed out or altered in any way;
 - (dd) if the visa is not acceptable, then a new visa must be obtained;
 - (ee) if the visaed invoice is deemed invalid, the US customs service will not return it after entry, but will provide a certified copy thereof for use in obtaining a correct original visaed invoice.
- (iii) (aa) Any application for a corrected visa must be submitted together with the copy of the incorrect visa and copies of all export documents to the Officer: Origin Administration.
- (bb) The Officer: Origin Administration may, after such examination as he deems necessary, issue a corrected visa unless evidence is obtained of the commission of an offence contemplated in section 46A(8) in which case the officer shall submit the application and a report on the results of the

examination, to the Manager: Origin Administration for a decision.

- (iv) Where the Officer: Origin Administration has reasonable doubts about the correctness of the statements made on the application for a visa, such officer, may -
 - (aa) request the exporter or manufacturer to produce documentary proof of origin;
 - (bb) detain and examine the goods entered for export;
 - (cc) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the application for a visa; and
 - (dd) refuse to issue a visa.
- (v) The Manager: Origin Administration may, for such time as he may determine, refuse issuance of a visa if –
 - (aa) the exporter or manufacturer fails to keep or produce books, accounts and other documents as contemplated in section 46A(3)(b)(i) and rule 46A1.12;
 - (bb) the exporter or manufacturer refuses the investigation or assistance contemplated in section 46A(3)(b)(ii);
 - (cc) the application for a visa is found to be false; or
 - (dd) the particulars on a visaed commercial invoice are altered in any way after issuance by the Officer: Origin Administration.
- (vi) The Manager: Origin Administration shall report monthly to the US Customs Service in respect of each exportation:
 - name of manufacturer
 - visa number
 - date of issuance
 - grouping number
 - export value of goods
 - quantity / unit of measure
 - US consignee (if known)
 - subheading to the 6-digit level
 - port of loading
 - mode of transport

port of destination

gross weight

46A1.06 Certificates of origin and visas for multiple shipments

- (a) (i) The certificate of origin may be applicable to a single importation into the US, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or
- (ii) multiple importations of identical articles within a specified blanket period of not exceeding one year as stated in the instructions for completion of Block 16(b) of the certificate of origin.
- (b) For the purposes of completion of Block 16(b) (multiple shipments of identical articles), “identical articles” means articles that are the same in all material respects, including physical characteristics, quality and reputation.
(19 CFR 10.216(b)(4))
- (c) (i) The certificate of origin number and date for multiple shipments shall be endorsed on all documents for goods exported on the basis of such certificate.
- (ii) The exporter of such shipments shall apply for a visa in respect of each shipment as contemplated in rule 46A1.05(a)(iii).

46A1.07 Incorrect certificates of origin and issue of corrected certificate

- (a) (i) 19 CFR 10.216(c) provides in respect of “correction and non-acceptance of a certificate” on importation of the goods concerned that –
 - (aa) “If the port director” (in the US) “determines that a Certificate of Origin is illegible or defective or has not been completed in accordance with paragraph (b) of this section”, (paragraph (a) (iii) of rule 46A1.04 and paragraph (a) of rule

46A1.06), “the importer will be given a period of not less the five working days to submit a corrected certificate.”

(bb) “A certificate will not be accepted in connection with subsequent importations during a period referred to in paragraph (b)(4)(ii) of this section”, (up to one year as provided in the rule for preparation of Block 16(b) on the certificate) “if the port director determined that a previously imported identical article covered by the certificate did not qualify for preferential treatment.”

(b) Where a certificate of origin is not accepted as contemplated in the provisions contained in paragraph (a)(i)(aa) the exporter shall furnish to the Officer: Origin Administration at the office where the reflected certificate was issued -

(i) a written statement supported by the request from the importer giving reasons why a corrected certificate of origin is required and the number and date of the original certificate of origin;

(ii) a completed certificate of origin endorsed in the space for official use: “Corrected certificate in substitution of certificate No.”;

(iii) copies of the bill of entry export, commercial invoice, bill of lading, air waybill or other transport documents together with any other documents produced when the original certificate was issued.

(iv) (aa) The Officer: Origin Administration shall keep a copy of the corrected certificate of origin and a copy of the written statement with the visa application and other export documentation.

(bb) If the visa is also incorrect, any application for a corrected visa shall be subject to the provisions of rule 46A1.05(d)(iii)

(v) (aa) Where a certificate of origin is not accepted in terms of a determination that a previously imported identical article covered by the certificate for multiple shipments did not

qualify for preferential treatment, the exporter shall not export any further goods on the basis of such certificate, unless the Manager: Origin Administration otherwise determines;

- (bb)* the Manager: Origin Administration shall cause all books, accounts and other documents relating to the exportation of the goods covered by such certificate to be investigated and shall take the necessary steps for enforcement of the provisions of the Act where any goods exported are found not to have qualified for preferential tariff treatment;
- (cc)* subject to any action that is taken in terms of the provisions of sections 46A(6)(d) or (8)(b), the Manager: Origin Administration may, for such period as he may determine, refuse to issue any visa for any goods exported by such exporter unless the exporter produces sufficient proof in respect of each shipment that the goods concerned qualify for preferential tariff treatment.
- (dd)* The Manager: Origin Administration may call for evidence from, and furnish a report on the results of any investigation to, the US Customs Service.

- (c)*
 - (i)* Any exporter or producer that has completed and signed a certificate of origin and that has reason to believe that the certificate contains information that is not correct, shall promptly notify the Manager: Origin Administration, the importer in the US and any other person to whom the certificate was given, of any change that could affect the accuracy or validity of the certificate;
 - (ii)* any exporter or producer who voluntarily provides written notification pursuant to subparagraph (i), shall not be subject to any penalty with respect to the making of any incorrect certification.
(Article 504(d) to (e) of NAFTA)

46A.1.08 Certificate of origin not required

(a) 19 CFR 10.216 (d) provides as follows in respect of the importations into the US for which and the conditions on which a certificate of origin is not required:

“(1) Except as otherwise provided in paragraph (d)(2) of this section, an importer is not required to have a Certificate of Origin in his possession for:

- (i) an importation of an article for which the port director has in writing waived the requirement for a Certificate of Origin because the port director is otherwise satisfied that the article qualifies for preferential treatment;
- (ii) a non-commercial importation of an article; or
- (iii) a commercial importation of an article whose value does not exceed US\$2 500, provided that, unless waived by the port director, the producer, exporter, importer or authorized agent includes on, or attaches to, the invoice or other document accompanying the shipment the following signed statement:

I hereby certify that the article covered by this shipment qualifies for preferential treatment under the AGOA.

Check One:

(.....) Producer

(.....) Exporter

(.....) Importer

(.....) Agent

.....
Name

.....
Title

.....
Address

.....
Signature & Date

- (2) Exception: If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§10.214 through 10.216, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential treatment. The importer will have 30 calendar days from the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential treatment. For purposes of this paragraph, a “series of importations” means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.”
- (b) For the purposes of implementing the provisions specified in paragraph (a) in respect of a commercial exportation for which a certificate of origin is not required every exporter shall:
- (i) ensure that the goods comply with the relevant provisions of origin at the time of export;
 - (ii) be in possession of the records and documents proving the originating status of the goods exported;
 - (iii) use serially numbered commercial invoices;
 - (iv) insert a reference number or other particulars on any invoice, delivery note or other commercial document according to which the goods can be readily identified in such records and documents;
 - (v) describe the goods on such invoice and any delivery note or other commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff subheading to the 6-digit level;
 - (vi) insert on any such document the applicable tariff subheading which must correspond with the subheading on the export bill of entry;

- (vii) indicate clearly on such documents by means of an asterisk and statement goods which are not of preferential origin;
 - (viii) insert on the commercial invoice and such other documents and the copies thereof the declaration specified in paragraph (a), which shall bear the original signature of the exporter.
- (c) The commercial invoice concerned and the copy thereof, which are required to be submitted with the application for a visa as contemplated in rule 46A1.05, shall in addition contain, where applicable, a statement that the article is non-commercial.
- (d) (i) Where a certificate of origin is required in the circumstances specified in 19 CFR 10.216(d)(2)-
- (aa) the exporter shall furnish to the Officer: Origin Administration an explanation of the circumstances which resulted in the United States Customs Service requiring a certificate of origin;
 - (bb) the provisions of rule 46A1.07(b)(v)(bb), (cc) and (dd) shall *mutatis mutandis* apply if the articles exported in terms of the provisions of this rule are found not to have qualified for preferential tariff treatment.

46A1.09 Certificate of origin and visa issued retrospectively

- (a) (i) If any goods that require a certificate of origin and visa to qualify for preferential tariff treatment on importation into the US are imported without a certificate of origin and a visaed invoice having been issued in other circumstances the those specified elsewhere in these rules and the exporter following upon a request from the importer prepares a certificate of origin an applies for the issue of a visa in respect of such goods, such exporter shall submit the application for the issue of a visa in writing to the office of the Controller where the goods were exported, stating fully the circumstances in which the goods were exported without a certificate of origin an a visaed invoice.

- (ii) Such application shall be supported by -
 - (aa) a complete certificate of origin and an application for a visa;
 - (bb) a fresh commercial invoice and a copy thereof certified by the exporter to be true copies of the invoice issued when the goods were exported;
 - (cc) copies of the bill of entry export, commercial invoice, bill of lading or air waybill or other transport document relating to the shipment and proof of the identity of the goods ordered and received in the US;
 - (dd) proof that the goods comply with the provisions of origin and other requirements of the relevant US enactments;
 - (ee) the request from the importer.
- (b) (i) The Officer: Origin Administration may investigate the books, accounts and other documents kept by the exporter and manufacturer and may conduct such other investigations he deems necessary for the purposes of determining whether the goods exported qualified for the issue of a visa.
- (ii) If the officer decides to issue the visa, he shall stamp and sign the original and duplicate of the fresh set of commercial invoices as prescribed in rule 46A1.05, but shall endorse in capital letters below the impression the words “ISSUED RETROSPECTIVELY”, and affix his signature thereto;
- (iii) the certificate of origin and the application for a visa must also be endorsed “ISSUED RETROSPECTIVELY” in the block for official use.

46A.1.10 Issue of a duplicate in the event of theft, loss or destruction of a visa

- (a) In the event of theft, loss or destruction of a visa, the exporter shall, for the purposes of the issuance of a duplicate visa, furnish to the Officer: Origin Administration at the office of the Controller where the original visa was issued -
 - (i) a written statement giving reasons why a duplicate is required;

- (ii) an application form for a visa and a fresh set of commercial invoices, both endorsed with the word “Duplicate” and the number and date of the original visa;
 - (iii) copies of the bill of entry export, commercial invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence submitted when the original visa was issued.
- (b) The Officer: Origin Administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts and circumstances considered when the original visa was issued.
- (c) If the officer decides to issue the duplicate visa, he shall stamp and sign the original and duplicate of the fresh set of invoices as prescribed in rule 46A1.05, but shall endorse in capital letters below the impression the words “DUPLICATE OF VISA NO.....DATE.....”, and affix his signature thereto.

46A.1.11 Origin verifications by US Customs Service

- (a) For the purposes of section 46A(3)(b), the US Customs Service may, to determine whether goods imported into the US from the Republic or any other beneficiary country qualify for preferential tariff treatment, conduct a verification by means of -
- (i) written questionnaires to an exporter or producer;
 - (ii) visits to the premises of an exporter or producer to review the records and observe the facilities used in production of the articles; or
 - (iii) such other procedure as the Commissioner and the US Customs Service may agree. (Article 506(1) of NAFTA)
- (b) Such verification of a claim for preferential treatment may involve, but need not be limited to, a review of:
- (i) documentation and other information in a beneficiary country regarding the country of origin of an article and its constituent materials, including but not limited to, production records, information relating to the place of production, the number and

identification of the types of machinery used in the production, and the number of workers employed in production; and

- (ii) evidence in a beneficiary country to document the use of US materials and materials of other origin in the production of the articles in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and export clearance documents. (19 CFR 10.217(a))

- (c) The Manager: Origin Administration shall for the purposes of giving effect to any enactment be responsible for rendering assistance to US Customs Service in respect of such verifications and in accordance with the Agreement between the Government of the Republic of South Africa and the Government of the United States of America regarding Mutual Assistance between their Customs Administrations.

46A.1.12 Keeping of books, accounts and other documents

- (a) Every exporter or producer as contemplated in section 46A(3)(b) shall maintain and keep for a period of five years from the date goods were exported complete books, accounts or other documents relating to the origin of goods for which preferential tariff treatment was claimed including any such books, accounts or other documents in connection with -
 - (i)
 - (aa) the purchase of, cost of, value of, and payment for the goods that are exported;
 - (bb) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the goods exported;
 - (ii) the production of the goods in the form in which they are exported, including proof of the originating status of the materials used and goods produced, the use of materials and other documentation and information contemplated in rule 46A.1.11(b);
 - (iii) any goods imported from any beneficiary country or the US, including proof of origin in respect of any goods exported in the

same state as imported or any goods used in the production of goods exported;

(iv) the exportation of the goods to the US.

(b) (i) Any books, accounts and other documents kept for providing evidence of the origination status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for proving the originating status of the goods and for fulfilling the other requirements of the AGOA and related enactments;

(ii) such books, accounts and other documents shall include-

(aa) direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned;

(bb) documents proving the identity of materials used in production and which contain enough particulars to determine the tariff subheading thereof;

(cc) documents proving the value of materials used and added value; and

(dd) costing records showing the calculation of the ex-factory price.

(iii) All production and other documents shall contain reference numbers or other particulars for identifying the goods in the producer's or exporter's records.

46A1.13 Internal appeal

(a) Any person involved in a dispute with the South African Revenue Service concerning any decision or determination in respect of the application or interpretation of any provision of any enactment or section 46A and these rules or any other provision of this Act may submit an internal appeal to the Commissioner within 3 months of the decision or determination concerned.

- (b) Application for internal appeal shall be made on the appeal form obtainable from the Manager: Origin Administration and shall state all the facts and circumstances relating to the dispute in such form which shall be supported by available documentary evidence including the documents in respect of the relevant customs and excise procedure and legal argument to substantiate the viewpoint expressed in the application.

46A1.14 The requirement of “imported directly”

- (a) In terms of section 112(a) of the AGOA the preferential tariff treatment applies to textile and apparel articles described in section 112(b) which are imported directly from a beneficiary sub-Saharan country and for this purpose “imported directly” is defined in 19 CFR 10.213(c) as meaning:
 - (i) direct shipment from any beneficiary country to the United States without passing through the territory of any non-beneficiary country;
 - (iii) if the shipment is from any beneficiary country to the United States through the territory of any non-beneficiary country, the articles in the shipment do not enter into the commerce of any non-beneficiary country while en route to the United States and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or
 - (iii) if the shipment is from any beneficiary country to the United States through the territory of any non-beneficiary country, and the invoices and other documents do not show the United States as the final destination, the articles in the shipment upon arrival in the United States are imported directly only if they-
 - (aa) remained under the control of the customs authority of the intermediate country;
 - (bb) did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the producer’s sales agent; and
 - (cc) were not subjected to operations other than loading or unloading, and other activities necessary to preserve the articles in good condition.

- (b) The exporter must provide the importer with the necessary documentation relating to the movement of the article to the US to enable the importer to comply with the provisions of 19 CFR 10.217(b)(3), which require that the importer -

“must have shipping papers that show how the article moved from the beneficiary country to the United States. If the imported article was shipped through a country other than a beneficiary country and the invoices and other documents from the beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in §10.213(c)(3)(i) through (iii)”, (paragraph (a)(iii) of this rule), “were met.”

African Growth and Opportunity Act
Textile Certificate of Origin

1. Exporter Name & Address		2. Producer Name & Address	
3. Importer Name & Address		6. US/African Fabric Producer Name & Address	
4. Description of Article	5. Preference Group	7. US/African yarn Producer Name & Address	
		8. US Thread Producer Name & Address	
		9. Name of Handloomed, Handmade or Folklore Article	
10. Name of Preference Group H Fabric or Yarn:			
<p>Preference Groups:</p> <p>A: Apparel assembled from US-formed and cut fabric from US yarn [19 CFR 10.213 (a)(1)].</p> <p>B: Apparel assembled and further processed from US-formed and cut fabric from US yarn [19 CFR 10.213 (a)(2)].</p> <p>C: Apparel cut and assembled from US-fabric from US yarn and thread [19 CFR 10.213 (a)(3)].</p> <p>D: Apparel assembled from regional fabric from yarn originating in the US or one or more beneficiary countries [19 CFR 10.213 (a)(4)].</p> <p>E: Apparel assembled in one or lesser developed beneficiary countries [19 CFR 10.213 (a) (5)].</p> <p>F: Sweaters knit to shape in chief weight or cashmere [19 CFR 10.213 (a)(6).]</p> <p>G: Sweaters knit to shape with 50 per cent or more by weight or fine [19 CFR 10.213 (a)(7)].</p> <p>H: Apparel cut and assembled in one or more beneficiary countries from fabrics or yarn not formed in the United States or a beneficiary country (as identified in NAFTA) or designated as not available in commercial quantities in the United States [19 CFR 10.213 (a)(8) or (a)(9)].</p> <p>I: Handloomed, handmade or folklore articles [19 CFR 10.213 (a)(10)].</p>			
<p>11. I certify that the information on this document */ and the attached continuation sheet(s) number(s)to.....is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.</p> <p>I agree to maintain, and present upon request, documentation necessary to support this certificate.</p> <p><small>* Delete and sign in full if not applicable.</small></p>			
12. Authorised Signature		13. Company	
14. Name (Printer or Type)		15. Title	

Rules for the preparation of the Certificate of Origin as published in 19 CFR 10.214, pages 59679 and 59680 of the Federal Register Volume 65, No. 194 of 5 October 2000

- (1) **Blocks 1 through 5** pertain only to the final article exported to the United States for which preferential treatment may be claimed;
- (2) **Block 1** should state the legal name and address (including country) of the exporter;
- (3) **Block 2** should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If the information is confidential, it is acceptable to state “available to Customs upon request” in block 2. If the producer and the exporter are the same, state “same” in block 2.
- (4) **Block 3** should state the legal name and address (including country) of the importer;
- (5) **Block 4** should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;
- (6) **Block 5**, insert the letter that designates the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;
- (7) **Block 6 through 10** must be completed only when the block in question calls for information that is relevant to the preference group identified in block 5;
- (8) **Block 6** should state the legal name and address (including country) of the fabric producer;
- (9) **Block 7** should state the legal name and address (including country) of the yarn producer;
- (10) **Block 8** should state the legal name and address (including country) of the thread producer ;
- (11) **Block 9** should state the name of the folklore article or should state that the article is handloomed or handmade;
- (12) **Block 10**, which should be completed only when preference group “H” is inserted in block 5, should state the name of the fabric or yarn that is not formed in the United States or a beneficiary country or that is not available in commercial quantities in the United States;

- (13) **Block 16a** should reflect the date on which the Certificate was completed and signed;
- (14) **Block 16b** should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 4 that are imported into the United States during a specified period of up to one year (see §10.216(b)(4)(ii)). The “from” date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 16a). The “to” date is the date on which the blanket period expires; and
- (15) The certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

African Growth and Opportunity Act
Application for a Visa

1. Exporter Name & Address		2. Producer Name & Address	
3. Importer Name & Address		6. US/African Fabric Producer Name & Address	
4. Description of Article	5. Preference Group	7. US/African yarn Producer Name & Address	
		8. US Thread Producer Name & Address	
		9. Name of Handloomed, Handmade or Folklore Article	
10. Name of Preference Group H Fabric or Yarn:			
<p>Preference Groups:</p> <p>For Visa – For Certificate of Origin:</p> <p>1. - A Apparel assembled from US-formed and cut fabric from US yarn [19 CFR 10.213 (a)(1)]</p> <p>2. - B Apparel assembled and further processed from US-formed and cut fabric from US yarn [19 CFR 10.213 (a)(2)]</p> <p>3. - C Apparel cut and assembled from US-fabric from US yarn and thread [19 CFR 10.213 (a)(3)].</p> <p>4. - D Apparel assembled from regional fabric from yarn originating in the US or one or more beneficiary countries [19 CFR 10.213 (a)(4)]</p> <p>5. - E Apparel assembled in one or more lesser developed beneficiary countries [19 CFR 10.213 (a)(5)]</p> <p>6. - F Sweaters knit to shape in chief weight or cashmere [19 CFR 10.213 (a)(6).]</p> <p>7. - G Sweaters knit to shape with 50 per cent or more by weight or fine [19 CFR 10.213 (a)(7)].</p> <p>8. - H Apparel cut and assembled in one or more beneficiary countries from fabrics or yarn not formed in the United States or a beneficiary country (as identified in NAFTA) or designated as not available in commercial quantities in the United States [19 CFR 10.213 (a)(8) or (a)(9)]</p> <p>9. - I Handloomed, handmade or folklore articles [19 CFR 10.213 (a)(10)]</p>			
<p>11. (a) I certify that the information on this document */ and the attached continuation sheet(s) number(s).....to.....is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.</p> <p>(b) I agree to maintain, and present upon request, documentation necessary to support this certificate.</p> <p>(c) I apply for the issue of a visa in respect of the articles described above.</p> <p>* Delete and sign in full if not applicable.</p>			
12. Authorised Signature		13. Company	
14. Name (Printer or Type)		15. Title	
16(a) Date (DD/MM/YY)	16(b) Blanket Period of Certificate	17. Telephone Number; Facsimile	

Rules for the preparation of the application for a visa, which are the same as those published for the Certificate of Origin in 19 CFR 10.214, pages 59679 and 59680 of the Federal Register Volume 65, No. 194 of 5 October 2000, except for omissions [in square brackets] or the insertions (underlined)

- (16) **Blocks 1 through 5** pertain only to the final article exported to the United States for which preferential treatment may be claimed;
- (17) **Block 1** should state the legal name and address (including country) of the exporter;
- (18) **Block 2** should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If the information is confidential, it is acceptable to state “available to Customs upon request” in block 2. If the producer and the exporter are the same, state “same” in block 2.
- (19) **Block 3** should state the legal name and address (including country) of the importer;
- (20) **Block 4** should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number: Insert for the visa application the total quantity and unit of quantity of the shipment in brackets below the description of the goods, for example, 510 doz;
- (21) **Block 5**, insert the [letter] number that designates the preference group which applies to the article according to the description contained in the CFR provision cited on the [Certificate] visa application for that group and the line reference on the export bill of entry;
- (22) **Block 6 through 10** must be completed only when the block in question calls for information that is relevant to the preference group identified in block 5;
- (23) **Block 6** should state the legal name and address (including country) of the fabric producer;
- (24) **Block 7** should state the legal name and address (including country) of the yarn producer;
- (25) **Block 8** should state the legal name and address (including country) of the thread producer ;
- (26) **Block 9** should state the name of the folklore article or should state that the article is handloomed or handmade;

- (27) **Block 10**, which should be completed only when preference group “H” is inserted in block 5, should state the name of the fabric or yarn that is not formed in the United States or a beneficiary country or that is not available in commercial quantities in the United States;
- (28) **Block 16a** should reflect the date on which the [Certificate] visa application was completed and signed;
- (29) **Block 16b** should be completed if the Certificate issued is intended to cover multiple shipments of identical articles as described in block 4 that are imported into the United States during a specified period of up to one year (see §10.216(b)(4)(ii)). The “from” date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 16a). The “to” date is the date on which the blanket period expires; and
- (30) If more space is needed to complete the [Certificate] visa application, attach a continuation sheet.

Part 2

Non-reciprocal preferential tariff treatment under the Generalised System of Preferences (GSP) granted to developing countries by the European Union

46A2A Termination of Generalised System of Preferences (GSP)

- (a) On 31 December 2013 the Generalised System of Preferences (GSP) granted by the European Union and for which these rules provide, ceased to apply.
- (b) With effect from 1 January 2014, the European Union will grant any GSP rates of duty that are more favourable than those under the Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic (TDCA) on goods exported from the Republic under the TDCA if the goods have originating status in accordance with Protocol 1 to the TDCA.
- (c) For the purposes of paragraph (b) –
 - (i) the rules numbered 49A must be complied with in respect of any exports under the TDCA to Member States of the European Union;
 - (ii) transitional arrangements notified by the European Union that may affect exporters are prescribed in rule 49A.01A inserted after rule 49A.01(f).

- 46A2.01 (a) The rules numbered 46A2 are –
- (i) rules contemplated in sections 46(4)(b) and 46A(4)(b) in respect of the enactments of the European Union relating to the Generalised System of Preferences (GSP) wherein is prescribed the origin and other requirements in terms of which goods exported from a developing country (which includes the Republic) will qualify for preferential tariff treatment on importation into the European Union;
 - (ii) substituted as a result of –
 - (aa) amendments to Commission Regulation (EEC) No. 2454/93 regulating the application of the GSP by Commission Regulation (EU) No. 1063/2010 and the replacement of “Community” by “European Union”;
 - (bb) the GSP no longer being applied between Switzerland and the Republic; and
 - (cc) separate provision being made in the rules numbered 46A5 for the GSP granted by Norway.

- (b) The enactments to which these rules relate are the following:

Commission Regulation (EU) No. 1063/2010 of 18 November 2010 amending Commission Regulation (EEC) No. 2454/93 which states the extent of the amendment as follows:

Article 1

Commission Regulation (EEC) No. 2454/93 is amended as follows:

- (1) In Part 1, Title IV, Chapter 2, Articles 66 to 97 are replaced by the following:

Commission Regulation (EU) No. 1063/2010 provides for the amendments under the following headings:

- Section 1 – Generalised system of preferences
- Sub-section 1 – General provisions – Articles 66 to 71
- Sub-section 2 – Definition of the concept of originating products – Articles 72 to 83
- Sub-section 3 – Cumulation – Articles 84 to 88
- Sub-section 4 – Derogations – Article 89
- Sub-section 5 – Procedures at export in the beneficiary country – Articles 90 to 96
- Sub-section 6 – Procedures at release for free circulation in the European Union – Article 97 to 97f
- Sub-section 7 – Control of Origin – Article 97g to 97h
- Sub-section 8 – Other provisions – Article 97i to 97j,

(Sub-sections 5 to 7 and sub-section 8 (Article 97j(2), point (8) and point (9)) will apply from 1 January 2017 in terms of paragraph 3 of Article 3 of Regulation (EU) No. 1063/2010 and those sub-sections are not otherwise referred to in these rules.)

- (2) In Part 1, Title IV, Chapter 2, the following Section 1A is inserted:

- Section 1A – Procedures and methods of administrative co-operation applicable until the application of the registered exporter system
- Sub-section 1 – General principles – Article 97k
- Sub-section 2 - Procedures at export in the beneficiary country – Article 97l to 97m
- Sub-section 3 - Procedures at release for free circulation in the European Union – Article 97n to 97r

- Sub-section 4 – Methods of administrative cooperation – Article 97s to 97u
- Sub-section 5 – Procedures for the purpose of bilateral cumulation – Article 97v
- Sub-section 6 – Ceuta and Melilla – Article 97w
- Annex I – Annex 13a – Introductory notes and list of working or processing operations which confer originating status (referred to in Article 76(1) –
 - Part 1 – Introductory Notes
 - Part 2 – List of working or processing operations which confer originating status
- Annex II – Annex 13b – Materials excluded from regional cumulation (referred to in Article 86(3))
- Annex III – Annex 13c – Application to become a registered exporter (referred to in Article 92) – Not applicable until 1 January 2017
- Annex IV – Annex 13d – Statement on origin (referred to in Article 95(3)) – not applicable until 1 January 2017
- Annex 14 - a reference in Notes 1 and 3 to Articles 69 and 100 is replaced by Article 100
- Annex V – Certificate of Origin Form A (Annex 17 of Commission Regulation (EEC) No. 2454/93 is amended)
- Annex VI – Invoice declaration (Annex 18)(referred to in Article 97m(3))
- Annex 21 (to Commission Regulation (EEC) No. 2454/93) – Movement Certificate EUR 1 and relevant applications

Council Regulation (EC) No. 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011

Regulation (EU) No. 512/2011 of the European Parliament and of the Council of 11 May 2011 (This Regulation replaced the words “31 December 2011” in Article 32(2) of Council Regulation (EC) No. 732/2008 by the words “31 December 2013 or until a date laid down by the next Regulation, whichever is the earlier”)

Statements on a Council Regulation applying a scheme of generalised tariff preferences for the period 1 January 2009 to 31 December 2011(Council Regulation (EC) No. 732/2008 of 22 July 2008)

The European Union's Rules of Origin for the Generalised System of Preferences: A Guide for Users (which in Appendices contains the following:

A Guide for Users

The Guide consists of sections 1 to 10 and the following Appendices:

- Appendix I - Contents, text of the brochure, with the list of beneficiary countries
- Appendix II - The legal texts
- Appendix III - The list of qualifying operations and the introductory notes (Annex 13a)
 - The list of materials excluded from regional cumulation (Annex 13b)
 - The list of workings excluded from GSP regional cumulation (Annex 16)
- Appendix IV - Documents related to proofs of origin:
 - Application to become a registered exporter (Annex 13c)
 - Statement of origin (Annex 13d)
 - Certificate of origin Form A (Annex 17)
 - Invoice Declaration (Annex 18)
 - Movement Certificate EUR 1 (Annex 21)

(A 'Notice to Readers' on the cover page of the Guide states – "This Guide aims to assist readers in their understanding of the rules, but is not itself the law. The sole legal provisions are those contained in the regulations duly adopted by the European Union.)

Notes to paragraph (b) on Commission Regulation (EU) No. 1063/2010:

(1) Paragraphs 3, 4 and 5 of Article 3 provide:

- 3.3 Subject to paragraph 4 of this Article, point (1), insofar as it relates to Articles 68 to 71, 90 to 97i and 97j(2), point (8) and point (9) of Article 1 shall apply from 1 January 2017.

- 3.4 Beneficiary countries which are not in a position to implement the registered exporter system on the date specified in paragraph 3 and which make a written request to the Commission before 1 July 2016 or in relation to which in accordance with the second paragraph of Article 2 the Commission has proposed adjustments, may continue to apply the provisions set out in Title IV Chapter 2, Section 1A and Annexes 17 and 18 of Commission Regulation (EEC) No. 2454/93, as amended by this Regulation, until 1 January 2020.
- 3.5 Point (2) of Article 1 shall apply until the date specified in paragraph 3 or, for the beneficiary countries referred to in paragraph 4, until the date specified in paragraph 4.
- (2) Subsection 4 of Section 1 provides for derogations in Article 89. In terms of Article 89 a temporary derogation from the provisions of Section 1 (stated as “this section”, which means Articles 67 to 97w) may be granted by the Commission to a beneficiary country on own initiative or in response to a request from a beneficiary country in the circumstances and on the conditions specified in the Article.
- (3) The Regulations and Guide for Users are available on the European Commission’s official website
[\(\[http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_839_en.htm\]\(http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_839_en.htm\)\)](http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_839_en.htm).
- (4) Article 1, under Title 1, Common Provisions of the Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union provides in the treaty establishing the European Union that the European Union (therein called "the Union") "shall replace and succeed the European Community". (The treaty came into force on 1 December 2009).
- (c) Any expression used in the rules with reference to any enactment shall, unless the context otherwise indicates, have the meaning assigned thereto in the said enactments, or relevant provisions of the Act or as defined in these rules.

- (d) (i) Where any rule reflects an alphabetical prefix or alphabetical prefixes and a number or numbers in brackets in any heading to or part of a rule, such a reference refers to enactments and their numbers of the European Union, for example –

“CRA 66” CRA followed by a number refers to the relevant article of Commission Regulation (EU) No 1063/2010, amending Commission Regulation (EEC) No 2454/93.).

- (ii) These references are merely quoted to facilitate tracing relevant provisions of an enactment and exporters are cautioned to study each enactment as a whole and in context to verify requirements in each case and not to rely solely on such references.

- (e) In the application of provisions of the Act to any enactment –

- (i) the following expressions in the definitions of an enactment shall have the meanings assigned thereto in this paragraph –

“chapters and headings” means the chapters and headings (four-digit codes) of Part 1 of Schedule No. 1;

“customs value” means the value of imported goods calculated or determined in accordance with the provisions of sections 65, 66, 67 and 74A; and

“Harmonized System” or “HS” or “Harmonized Commodity Description and Coding System” means, for the purposes of any meaning ascribed to the expression in any provision of origin in any enactment or these rules, the provisions of Part 1 of Schedule No. 1, except national subheadings or additional section and chapter notes and the rates of duty, applicable to the classification of any goods in any chapter or heading or subheading, and for the purposes of interpretation of Part 1 of Schedule No. 1, includes application of the Explanatory Notes to the Harmonized System as required in terms of section 47(8)(a);

(ii) the following expressions in an enactment shall have the meanings assigned thereto in this paragraph –

(aa) “authority or authorities”, “competent authorities”, “customs authorities” or “governmental authorities” means, with effect from the date these rules come into operation, the Commissioner, or in accordance with any delegation in these rules, the Senior Manager: Trade Administration in the Customs Division of the South African Revenue Service, the Controller or any other officer;

“beneficiary country” or “GSP beneficiary country” (except when referring to benefits for a least developed country) or “developing country” includes the Republic;

“bilateral cumulation” means a system that allows products which according to Commission Regulation (EU) No. 1063/2010 originate in the European Union, to be considered as originating materials in a beneficiary country when they are further processed or incorporated into a product in that beneficiary country (definition in Article 67);

“certificate of origin Form A” or “Form A” means the Generalised System of Preferences, Certificate of Origin (combined declaration and certificate) Form A included in the enactments of the European Union specified in paragraph (b), which is issued in a beneficiary country as proof of origin and of which numbered sets are provided by the South African Revenue Service as stated in these rules and a specimen is published in the annex hereto;

“European Union” means the European Union and its Member States:

The Republic of Austria;

The Kingdom of Belgium;

The Republic of Bulgaria;

The Republic of Cyprus;
 The Czech Republic;
 The Kingdom of Denmark, except the Farce Islands and Greenland;
 The Republic of Estonia;
 The Republic of Finland;
 The French Republic, except the overseas territories and '*collectivités territoriales*', but including the territory of the Principality of Monaco (as defined in the Customs Convention signed in Paris on 18 May 1963);
 The Federal Republic of Germany, except the Island of Helgoland and the territory of Buesingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation), but including the Austrian territories of Jungholz (Treaty of 3 May 1868) and Mittelberg (Treaty of 2 December 1890);
 The Hellenic Republic (Greece);
 The Republic of Hungary;
 The Republic of Ireland;
 The Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio, but including the territory of the Republic of San Marino (as defined in the Convention of 31 March 1939);
 The Republic of Latvia;
 The Republic of Lithuania;
 The Grand Duchy of Luxembourg;
 The Republic of Malta;
 The Kingdom of the Netherlands in Europe;
 The Republic of Poland;
 The Portuguese Republic;
 The Kingdom of Sweden;
 Romania;
 The Republic of Slovenia;
 The Slovak Republic;
 The Kingdom of Spain, except Ceuta and Melilla;

The United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man;

“GSP” means the Generalised System of Preferences as in operation in the European Union in terms of which non-reciprocal preferential tariff treatment is granted to goods originating in beneficiary countries which include the Republic;

“GSP goods” means goods exported or in the case of a producer, goods produced for export from the Republic for the purposes of obtaining the benefits of preferential tariff treatment on importation into the European Union;

“Member State” means a State which is a member of the European Union;

“Movement Certificate EUR 1” in respect of GSP goods means, the form of which a specimen is published in Annex 21 of Commission Regulation (EEC) No 2454/93 and which is issued by a Member State of the European Union as proof of the originating status of goods exported to the Republic for the purposes of the GSP;

“origin”, “originate”, “originating status” and cognate expressions, relate to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in an enactment;

“preferential tariff treatment” shall have the meaning assigned thereto in section 46A(1);

(bb) For the purposes of CRA 75 –

“company” means a company contemplated in the Companies Act, No. 71 of 2008;

“registered” or “sail under the flag of a GSP beneficiary country” or “beneficiary country” includes “registered” or “of South African nationality” as contemplated in the Merchant Shipping Act, No. 57 of 1951;

”seabed” and “ below the seabed” means “ the bed of the sea and the subsoil thereof” included in the definition of “sea” in section 1 of the Maritime Zone Act, No. 15 of 1994;

”territorial sea” means the territorial waters as defined in section 4 of the Maritime Zone Act, No. 15 of 1994.

(iii) the expression –

”enactment” means an enactment as defined in section 46A(1) and includes any legislative enactment specified in paragraph (b), any amendment thereof or any directive in connection therewith issued by the European Union;

”exporter” means a registered exporter as contemplated in section 46A(6);

”goods” as used in these rules means depending on the context, “goods” or “products” or “materials” as defined in an enactment;

”list rule” means the “List of working or processing required to be carried out on non-originating materials” in order that the product manufactured can obtain originating status as contained in the enactments;

”manufacturer” means a registered manufacturer as contemplated in section 46A(6) and includes, depending on the context, a “producer”;

”producer” means a registered producer as contemplated in section 46A(6) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products

and depending on the context, any person that manufactures, processes or assembles goods or any combination thereof;

”relevant enactment” means an enactment of the European Union;

”SACU” means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Kingdom of Swaziland and the Republic of South Africa; and

“Republic” means the Republic of South Africa.

- 46A2.02 (a) Subject to section 3(2), any power, duty or function contemplated in sections 46(4)(d) and 46A(4) is delegated to the extent specified in these rules to the Senior Manager: Trade Administration in the Customs Division of the South African Revenue Service, the Controller or the Officer: Origin Administration or any officer designated to exercise such power or perform such duty or function.
- (b) For the purposes of paragraph (a) any Officer: Origin Administration or any other officer authorised by the Senior Manager: Trade Administration or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in any enactment or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of such enactment.
- 46A2.03 Any reference in any enactment or any rule or form relating to the Generalised System of Preferences granted by the Community must be regarded as referring to the Generalised System of Preferences granted by the European Union.
- 46A2.04 Registration of exporter and producer
- For the purposes of section 46A(6) and section 59A –
- (a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of –
- (i) an exporter, Annexure DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;

- (ii) a producer, Annexure DA 185.4A7 and form DA 46A.02 incorporated in Section A thereof;
- (b) if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.

46A2.05 Exporters must ascertain precise qualifying requirements and extent of benefit from importer or customs authority in the European Union.

- (a)
 - (i) The enactments of the European Union referred to in these rules have been obtained from the internet.
 - (ii) These enactments are included on the South African Revenue Service (SARS) website and copies are available at the offices of Controllers where certificates of origin are issued.
- (b) Care must therefore be exercised in applying any provision and the South African Revenue Service cannot warrant that the enactments are free from errors or up to date or otherwise complete and having regard to the provisions of section 46A(7), it is the duty of exporters to ascertain particulars or confirmation of the precise qualifying requirements and the extent of any benefit from the importer or the customs authority in the Member State of the European Union to which the goods are exported.

Rules relating to enactments of the European Union prescribing requirements concerning the origin and proof of origin in respect of goods exported from beneficiary countries

Sub-section 1 – General Provisions

Definitions (CRA 67)

- 46A2.06 The definitions apply to Section 1 and Section 1A and therefore relate to the contents of Articles 68 to 97W and Annexes 13a, 13b, 13d, 17, 18 and 21, but not all are of relevance for the purposes of these rules as certain of the provisions will only apply from 1 January 2017 as stated in Article 3.3 of Commission Regulation (EU) No. 1063/2010.

Sub-section 2 – Definition of the concept of originating products (CRA 72 to 83)

- 46A2.07 (a) In terms of the relevant enactments the basic requirements for a product to be regarded as originating in a GSP beneficiary country are that it must be –
- (i) wholly obtained in that country; (CRA 72 and CRA 75)
 - (ii) obtained in that country in the manufacture of which products other than those referred to in subparagraph (i) are used, provided that the said product has undergone sufficient working or processing; (CRA 72 and CRA 76, Annex 13a)
- (b) An originating product is eligible, on importation into the European Union to benefit from the relevant tariff preference, provided –
- (i) Products declared for release for free circulation in the European Union are the same products as exported from the Republic in respect of which conditions for compliance and evidence that may be required are specified in Article 74 and rule 46A2.16;
 - (ii) a valid Certificate of Origin Form A is submitted or an invoice declaration is produced; and
 - (iii) the customs administration (or other government authority) of a beneficiary country assists the customs authorities of Member States of the European Union to verify (when required) the authenticity of

the document or the accuracy of the information regarding the origin of the product.

- (c) For the purpose of these requirements –
- (i) exporters and producers (as defined) must ensure that proper records are kept to prove the originating status of goods exported (whether on completion of Certificate of Origin Form A or an invoice declaration) under the GSP scheme as specified in these rules;
 - (ii) exporters must produce a duly completed application form and submit the necessary supporting documents proving the originating status of the goods concerned when applying for certification of Form A.

46A2.08 Products wholly obtained in a GSP beneficiary country (CRA 75)
Goods wholly obtained must be so described on Certificate of Origin Form A or any invoice declaration and any clearance for export, for example, “coal (wholly obtained)”.

46A2.09 Products sufficiently worked or processed (CRA 67 (relevant definitions), CRA 72, CRA 76, CRA 77, CRA 80 to CRA 83 and Annex 13a)
Certain derogations from Article 76 are allowed to the extent and subject to the exclusions and conditions specified in Article 79.

46A2.10 Insufficient working or processing (CRA 78)
Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out to distinguish sufficient and insufficient working.

46A2.11 Unit of qualification (CRA 80)
No rule.

46A2.12 Accessories, spare parts and tools (CRA 81)
No rule.

- 46A2.13 Sets (CRA 82)
- Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purposes of application of the relevant provisions of origin.
- 46A2.14 Goods for which origin need not be determined if used in manufacture (CRA 83)
- No rule.
- 46A2.15 Re-importation of goods (CRA 73)
- (a) For the purpose of application of the relevant enactments “exported” includes goods removed from the Republic to any other SACU country.
- (b) When entering any goods under rebate of duty for which originating status as contemplated in any relevant enactment is claimed on re-importation from any country including a SACU country, it must be proved for the purposes of entry under item 409.00 of Schedule No. 4 that the goods returned –
- (i) are the same as those which were exported;
- (ii) have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.
- 46A2.16 Originating products exported from a beneficiary country declared for release for free circulation in the European Union (CRA 74)
- (a) The provisions of this rule apply with the necessary changes to the import of goods into the Republic for the purposes of the provisions of rule 46A2.17 (cumulation).
- (b) Goods declared for release for free circulation in the European Union –
- (i) must be the same goods as exported from the beneficiary country in which they are considered to originate;
- (ii) must not have been altered, transformed in any way or subject to operations other than operations to preserve them in good condition prior to be declared for release for free circulation.

- (c) Storage of goods or consignments and splitting of consignments exported to the European Union may take place when carried out under the responsibility of the exporter or a subsequent holder of the goods and the goods remain under customs provision in the country or countries of transit.
- (d)
 - (i) An exporter, if required, should be able to furnish evidence, as may be applicable, to the importer in so far as the provisions relate to the export of the goods, that the requirements of paragraphs (a), (b) and (c) have been complied with, which may include contractual transport documents, or any evidence relating to the marking or numbering of the goods or the goods themselves.
 - (ii) Where goods have been removed in transit through a third country documents regarding the movement of those goods may include a declaration by the exporter supported by a statement from the customs authorities of the country concerned substantiating the statement of the exporter.
- (e) “A contractual transport document” may include a through bill of lading or air waybill indicating a contract for the carriage of goods to or from the country concerned from or to the Republic.
- (f) The exporter must, if required, produce such evidence to the Controller together with the application for issue of Certificate of Origin Form A, completed Form A and other prescribed export documents.

Sub-section 3 - Cumulation

46A2.17 The enactments provide for the following cumulation procedures not included in these rules:

- (a)
 - (i) Article 84, 88(1)(a), paragraph 4 of Article 95, paragraph 5 of Article 97m and Article 97v apply in respect of bilateral cumulation.
 - (ii) Bilateral cumulation allows that products originating in the European Union which are exported to a GSP beneficiary country and which are subject to working or processing there going beyond the processes regarded as insufficient working or processing

- (CRA 78) are regarded as originating in that GSP beneficiary country (CRA 84).
- (iii) *(aa)* regional cumulation (CRA 86 and 87) applies to four separate regional groups, not including the Republic;
 - (bb)* cumulation between beneficiary countries and Norway, Switzerland and Turkey considered as materials originating in a beneficiary country (Article 85);
 - (cc)* extended cumulation at the request of a beneficiary country (Article 86 (paragraphs 7 to 9)).
- (b)* In terms of Article 97v evidence of the originating status of European Union products must be furnished by either –
- (i)* the production of movement certificate EUR 1; or
 - (ii)* the production of an invoice declaration referred to in rule 46A2.24 which may be made out –
 - (aa)* by an exporter for consignments containing products of which the total value does not exceed EUR 6 000; or
 - (bb)* irrespective of the value of the products, by an approved European Union exporter.
- (c)* *(i)* Where goods are exported from the European Union to the Republic for working or processing, the form EUR 1 must reflect the endorsement “GSP Beneficiary Country” and “European Union” in Box 2 of the form. (CRA 97v, paragraph 2)
- (ii)* On importation of goods into the Republic for cumulation purposes, the import clearance must be endorsed with the movement certificate EUR 1 number and date or to the effect that the importer is in possession of an invoice declaration.
- (d)* *(i)* Whenever originating status is claimed for any product in which materials originating in the European Union have been incorporated the exporter shall, in addition to any other documentation that may be elsewhere specified in these rules, keep available for inspection all appropriate records to prove compliance with the conditions for cumulation.

- (ii) The statement of origin made out by the exporter must contain the indication “EU cumulation” in Box 4 as specified in rule 46A2.20.
- (e) If the Controller is not satisfied with the evidence regarding products imported for cumulation and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on furnishing of a provisional payment or other security pending production of the documents necessary to prove the originating status and compliance with any other requirements in the relevant enactment.

46A2.18 **Sub-section 4 - Derogation**

Temporary derogation from the provisions of section 1 of Commission Regulation (EU) No. 1063/2010 may be granted by the Commission to a beneficiary country in the circumstances and on the conditions specified in Article 89.

Section 1A – Procedures and methods of administrative cooperation applicable until the application of the registered exporter system

Sub-section 1 – General Principles (Article 97k)

- 46A2.19 (a) The Senior Manager: Trade Administration shall ensure compliance with –
 - (i) the rules on the origin of the products being exported (Articles 72 to 89 and Annex 13a);
 - (ii) the rules for completion and issue of Certificate of Origin Form A (Annex 17);
 - (iii) the provisions for the use of invoice declarations (Annex 18);
 - (iv) the provisions concerning methods of administrative co-operation (Article 97s);
 - (v) the provisions concerning granting of derogations, if applicable (Article 89); and
 - (vi) the provisions of paragraph 2 of Article 97k.

Sub-section 2 – Procedures at export in the beneficiary country

46A2.20 General conditions and issue of Certificate of Origin Form A (CRA 97 and the Guide for Users)

- (a) Numbered Certificate of Origin Form A forms have been printed in accordance with the provisions of the enactments and are available on application from the South African Revenue Service at the offices of Controllers specified in paragraphs (a) and (b) of item 200.03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to the European Union.
- (b)
 - (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
 - (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.
 - (iii)
 - (aa) The Certificate of Origin Form A, export bill of entry, application form and supporting documents for each consignment must be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Senior Manager: Trade Administration otherwise determines.
 - (bb) Every export bill of entry shall be endorsed –
 - (A) whether Certificate of Origin Form A or an invoice declaration is produced;
 - (B) with the Certificate of Origin Form A number, if applicable;
 - (cc) “Supporting documents” include those contemplated in paragraph (ij).
 - (dd) In addition to any copies required in terms of other export clearing procedures, the exporter or his or her agent must also submit for retention by the Controller –
 - (A) an additional copy of the bill of entry export;
 - (B) copies of the documents specified in subparagraph (aa);
 - (C) a copy of the export invoice (endorsed with the invoice declaration, where applicable), a copy of the bill of

loading, air waybill or the transport document, and producer's declaration, where applicable.

- (ee) If an invoice declaration is produced after export a copy of the relevant export bill of entry must be submitted therewith to the Officer: Origin Administration.
 - (ff) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.
- (iv) The officer processing the documents must check the copy of Certificate of Origin Form A submitted for retention to verify whether it is a true copy of the original and if satisfied must certify it as such.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the Certificate of Origin Form A and the application form.
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in the relevant enactment.
- (f) The letter of authority shall be submitted together with the completed Certificate of Origin Form A and application form and will be retained by the Controller.
- (g)
 - (i) Completion of a Certificate of Origin Form A or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the relevant enactment.

- (ii) Certificate of Origin Form A must be accompanied by the Application for Certificate of Origin Form A (DA 46A.03) and, if the exporter is not the producer, a Declaration by the Producer (Form DA 46A.04).
- (h) Certificate of Origin Form A must be completed to be authentic in accordance with the instructions in the relevant enactments, the notes on the reverse thereof and the following requirements:
- (i) (aa) The certificate must be filled in in English;
 - (bb) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
 - (ii) the numbered boxes of the certificate must be completed as follows:
 - Box 1**
 - The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic.
 - Box 2**
 - Insert the consignee's name, address and country.
 - Box 3**
 - Insert the details which will be inserted on the export bill of entry.
 - Box 4**
 - Insert the bill of entry export number and date, client number of the exporter referred to in rule 56A.06(1) and one of the following endorsements where necessary:
 - "Duplicate" (where application is made for a duplicate);
 - "Issued retrospectively" (where the goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof);
 - "EU Cumulation", where goods have acquired originating status by cumulation of origin involving products originating in the European Union as contemplated in rule 46A2.17 and the relevant enactment.

Boxes 5 and 6

- Enter item numbers in Box 5 and identifying marks and numbers in Box 6.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- If they are not marked state “No marks and numbers”
- No space must be left between items.

Box 7

- State identifying marks and numbers on the packages.
- For goods in bulk which are not packed insert “In bulk”.
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.
- The goods must be identified by giving a reasonably full commercial description supplemented where necessary by information which enable the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111).
- If both originating and non-originating goods are packed together describe only the originating goods and add at the end “Part contents only”.
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk on the invoice and the following statement put in Box 7, below the description of the goods:
 - Goods marked with an asterisk (*) on the invoice are non-originating and are not covered by this Certificate of Origin Form A.
 - Draw a horizontal line under the only or final item in Box 7 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 8 (See Notes on the reverse of Certificate of Origin Form A)

- Enter the letter “P” for goods wholly obtained; or

- Enter the letter “W” followed by the Harmonized System heading at the 4-digit level for goods sufficiently worked or processed in terms of the relevant enactments.

Box 9

- Insert metric measures or any other quantity required.

Box 10

- Insert the invoice number and date.

Box 11

- Certification
- The officer must print his or her initials and surname below his or her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him or her for that purpose.

Box 12

- The box must be duly completed and the initials and surname and capacity of the person signing the certificate must be stated below the signature.
- In the space for “importing country”, either “European Union” or the name of the Member State must be inserted.
- If the certificate is signed by a clearing agent on behalf of an exporter, the name of the clearing agent must be stated below the signature.
- The signature must not be mechanically reproduced or made with a rubber stamp.
- No certificate shall be valid –
 - if any entered particulars are incorrect and not in accordance with these rules;
 - if it contains any erasures or words written over one another;
 - if altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are signed in full by the person who completed the certificate and endorsed by the officer who signs the certificate.

Application form for certification of Form A

(ij) For the purposes of verification of the originating status of goods declared in the Application for Certificate of Origin Form A (DA 46A.03) the exporter, whether –

- (i) the manufacturer in whose undertaking the last working or processing was carried out; or
- (ii) an exporter who has bought in the goods from a manufacturer for exportation in the same state; or
- (iii) an exporter who re-exports in the same state goods imported from the European Union or re-exports goods re-imported as contemplated in rule 46A2.15,

must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including (as may be applicable) –

- (aa) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or producer to obtain the goods concerned, movement certificates and invoice declarations authorised in terms of the relevant enactment, proving the originating status of goods imported and re-exported or materials used and producer's declaration form DA 46A.04;
- (bb) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
- (cc) documents proving the value of materials used and added value;
- (dd) costing records showing the calculation of the ex-works price defined in the enactments.

(k) The requirements for signing the declaration on Certificate of Origin Form A are also applicable in respect of the application form which –

- (i) must bear the original signature of the person signing the declaration;
- (ii) must be signed by the same person who signed the declaration on the Certificate of Origin Form A.

- (iii)
 - (aa) The exporter must ensure that the application is duly completed and must submit the supporting documents specified in paragraph (3) of the declaration; and
 - (bb) the supporting documents must include any relevant documents referred to in paragraph (ij).
- (l) Where the Officer: Origin Administration has reasonable doubts about the correctness of the statements made on the application for a Certificate of Origin Form A, such officer may –
 - (i) request the exporter or manufacturer to produce documentary proof of origin;
 - (ii) detain and examine the goods entered for export;
 - (iii) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the application for a Certificate of Origin Form A; and
 - (iv) refuse to issue the Certificate of Origin Form A until he is satisfied that the originating requirements of the enactments have been complied with.

46A2.21 Certificate of Origin Form A issued retrospectively (CRA 97l)

- (a)
 - (i) The exporter may only apply for the issue of a Certificate of Origin Form A after exportation at the office of the Controller where the goods were originally entered for export.
 - (ii) Certificate of Origin Form A may only be issued after exportation of the products to which it relates, if –
 - (aa) it was not issued at the time of exportation because of errors or accidental omissions or special circumstances; or
 - (bb) it is demonstrated that a Certificate of Origin Form A was issued but not accepted on importation of the goods in the country of destination for technical reasons.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by –
 - (i) a completed Certificate of Origin Form A and its application form of which –
 - (aa) Box 4 shall be endorsed “issued retrospectively”; and

- (bb) if a Certificate of Origin Form A has not been issued previously for the goods concerned, the declaration by the exporter on form DA 46A.03 shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of the relevant enactment;
 - (iv) full reasons of the circumstances in which a retrospectively issued Certificate of Origin Form A is required.
- (c) Before such application is considered an officer will first conduct an examination for verification that the particulars contained in the exporter's application conform to those contained in the corresponding export documents.
- (d) The application for the issue of a Certificate of Origin Form A retrospectively shall be considered by the Controller.

46A2.22 Issue of a duplicate Certificate of Origin Form A (CRA 971)

- (a) The exporter shall furnish to the Officer: Origin Administration at the office of the Controller where the original Certificate of Origin Form A was issued –
 - (i) a written statement giving reasons why a duplicate is required and the number and date of the original Certificate of Origin Form A;
 - (ii) a completed Certificate of Origin Form A and application form reflecting the word DUPLICATE and the number and date of the original form in Box 4;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued.
- (b) The Officer: Origin Administration shall attach a copy of the original application form to the application form for a duplicate and shall take into

account the facts or circumstances considered when the original Certificate of Origin Form A was issued.

46A2.23 Issue of replacement Certificate of Origin Form A (CRA 97p)

Article 97p provides for the issuing of replacement Certificates of Origin Form A by a Member State of the European Union for goods originating in a GSP beneficiary country where the goods or some of the goods are sent elsewhere within the European Union or, where applicable, to Norway or Turkey.

46A2.24 Content and format of invoice declaration (Article 97m and Annex 18)

- (a) The provisions of Article 84 paragraph 4 of Article 95, paragraph 5 of Article 97m and Article 97v and rule 46A2.17 apply in respect of the issue of proof of origin in respect of bilateral cumulation.
- (b) The provisions relating to invoice declarations for goods exported to the European Union are only applicable in respect of a consignment consisting of one or more packages containing originating products of which the total value does not exceed EUR 6 000 (CRA 97m, paragraph 1).
- (c) Every exporter must –
 - (i) make out one invoice declaration for each consignment;
 - (ii) ensure that the goods comply with the relevant provisions of origin at the time of export;
 - (iii) be in possession of the records and documents proving the originating status of the goods exported;
 - (iv) use serially numbered invoices;
 - (v) insert a reference number or other particulars on any invoice, delivery note or another commercial document according to which the goods can be readily identified in such records and documents;
 - (vi) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
 - (vii) insert on any such document the applicable tariff heading;

- (viii) indicate clearly on such documents by means of an asterisk (*) and statement goods which are not of preferential origin;
- (ix) insert on three (3) copies of the invoice or such other document the English version of the declaration specified below, which shall –
 - (aa) be dated and bear the original signature of the exporter in manuscript; and
 - (bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature.

“The exporter of the products covered by this document declares that, except where otherwise clearly indicated, these products are of preferential origin according to the rules of origin of the Generalised System of Preferences of the European Union and

(place and date)

.....
 (Signature of the exporter; in addition the name of the person signing the declaration has to be indicated in clear script.)”

- (d) The documents referred to in subparagraph (ix) shall be dealt with by –
 - (i) forwarding one copy of the document on which the declaration is made to the consignee;
 - (ii) including with the other export documentation one such copy and a copy of the invoice for retention by the Controller; and
 - (iii) creating a file for storing a copy of the invoice, such delivery note or other commercial document and supporting evidence to prove the origin of the goods.
- (e) Any exporter who issues any invoice declaration may be prohibited from issuing such declarations where such exporter –
 - (i) makes a false declaration concerning the origin of the value of any consignment;
 - (ii) does not comply with the requirements of the relevant enactment or these rules;

- (iii) fails to notify the Senior Manager: Trade Administration that the goods no longer fulfil the required origin conditions (for example, by change of sources or materials).
- (f) If an exporter has been so prohibited from using invoice declarations, such exporter shall apply for Certificate of Origin Form A in respect of all exports for which originating status is claimed.
- (g) (i) If any invoice declaration is required to be made after exportation, the documents reflecting the invoice declaration together with the copies of the other documents produced at the time of export and the documents proving originating status shall be produced and application shall be made to the Officer: Origin Administration at the office of the Controller where the goods were entered for export.
- (ii) The provisions of rule 49A2.21 shall apply *mutatis mutandis* to such application.

46A2.25 Submission of proof of origin (CRA 84 and 97n to 97r)

- (a) These provisions are only applicable in respect of goods imported when imported for cumulation purposes as contemplated in rule 46A2.17.
- (b) Any proof of origin in respect of imported goods must be –
 - (i) delivered to the Controller at the time the goods are entered home consumption or deemed to have been entered for home consumption; or
 - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
 - (iii) must be in English and if not so a translation must be attached thereto.
- (c) Exporters must submit the Certificate of Origin form A or the invoice declaration as proof of origin to reach the importer timeously in the country of destination as such proof of origin must be produced to the customs authorities in the country concerned within 10 months from the date of issue in the Republic.

- (d) After such period proof of origin is only accepted –
 - (i) if failure to observe the time limit is due to exceptional circumstances; or
 - (ii) where the goods have been submitted to the customs authorities in the country of destination before the final date of expiry.

46A2.26 Importation by instalments (CRA 97o)

- (a) These provisions are only applicable to goods imported for cumulation purposes as contemplated in rule 46A2.17.
- (b) Where any importer requests approval to import goods contemplated in this Article by instalments application shall be in writing and –
 - (i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Group Manager: Tariff Policy at Head Office and forward a copy of the application to the Senior Manager: Trade Administration;
 - (ii) in the case of other dismantled or non-assembled goods within the meaning of general rule 2(a) of the Harmonized System (General Note A 2(a) to Schedule No. 1) and falling within Section XVI or XVII or heading 7308 or 9406 of Part 1 of Schedule No. 1, application shall be made to the Senior Manager: Trade Administration stating a full description of the goods, the tariff heading, the number of consignments and include *pro forma* invoices of each.
- (c) Copies of proof of origin shall be presented with each bill of entry for the importation of consignments subsequent to the first instalment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry.
- (d) When such goods are exported to the European Union one Certificate of Origin Form A shall be issued and submitted to the importer in the country of destination on exportation of the first instalment.

46A2.27 Exemptions from requirement of formal proof of origin (CRA 97q)

- (a) Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage.
- (b) According to the enactments the following general conditions apply to exemption from production of proof of origin in respect of the importations concerned, where –
 - (i) the value of such goods does not exceed the limit of EUR 500 in the case of small packages or EUR 1 200 in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage for the personal use of the recipients or travellers or their families;
 - (iii) the goods have been declared as meeting the requirements of the relevant enactment and there is no reason to doubt the veracity of such declaration.

46A2.28 Discrepancies and formal errors (CRA 97r)

- (a) Slight discrepancies in proof of origin documents submitted at the time of entry of imported goods may include –
 - (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) that the information is valid and accurate but not in the correct box;
 - (iv) that the exporter's declaration box is not dated.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors may be accepted provided the documents and goods comply with the conditions contemplated in the relevant enactment and are not such as to create doubts concerning the correctness of the statements in that document.

Sub-section 4 – Methods of administrative cooperation

46A2.29 Notification of competent authorities (CRA 97s)

The stamp in use for issuing certificates of origin must be used for issuing Certificate of Origin Form A.

46A2.30 Administrative Cooperation (CRA 97s and 97t)

The Senior Manager: Trade Administration shall be responsible for rendering the administrative cooperation contemplated in sub-section 4.

46A2.31 Verification of proof of origin (CRA 97t and CRA 97v)

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the exporting country.
- (b) If a request is received from the customs authorities in the European Union, the exporter, manufacturer, producer or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfilment of the other requirements of the enactments.
- (c) The Senior Manager: Trade Administration shall determine whether or not to refuse entitlement to preferences for goods imported for cumulation purposes in accordance with the circumstances contemplated in the enactments.

46A2.32 Keeping of books, accounts and other documents (CRA 97t)

- (a) Any books, accounts and other documents kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for the proving of the originating status of the goods and for fulfilling of the other requirements of the related enactment;
- (b) Every exporter or producer or any other person as contemplated in section 46A(3)(b) shall maintain and keep for a period of five years from the date goods were exported complete books, accounts or other

documents relating to the origin of goods for which preferential tariff treatment was claimed including any such books, accounts or other documents in connection with –

- (i)
 - (aa) the purchase of, sale of, cost of, value of, and payment for the goods that are exported;
 - (bb) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the goods exported;
 - (ii) the production of the goods in the form in which they are exported, including proof of the originating status of the materials used and goods produced, the use of materials and other documentation and information to prove the originating status of the goods exported;
 - (iii) documents relating to any goods imported from the European Union, including proof of origin in respect of any goods exported in the same state as imported or any goods used in the production of goods exported;
 - (iv) the exportation of the goods to the countries concerned;
 - (v) any other documents contemplated in rule 46A2.20(*ij*).
- (c) (i) For the purpose of paragraph (b) the books, accounts and other documents must include specifically the following:
- (aa) direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned;
 - (bb) documents proving the identity of materials used in production and which contain enough particulars to determine the tariff subheading thereof;
 - (cc) documents proving the value of materials used and added value;
 - (dd) costing records showing the calculation of the ex-works price;
 - (ee) serially numbered invoices of goods sold for export; and
 - (ff) copies of Certificate of Origin Form A and all export documents (including transport documents).
- (ii) The invoiced price is not acceptable as the ex-works price, and may be determined by the Senior Manager: Trade Administration in consultation with the Group Manager: Valuation Policy, where –
- (aa) different terms apply, for example, CIF price;

- (bb) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
 - (cc) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (dd) a discount has been granted subject to conditions, for example, payment to be made within six (6) months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
 - (ee) any other instances where the invoiced price is not an ex-works price.
- (d) For the purpose of compliance with the provisions of the enactments, the Controller must keep a copy of the Certificate of Origin Form A and supporting evidence and any related export documents for at least five (5) years after the date of entry of export of the goods concerned.

Sub-section 5 – Procedures for the purpose of bilateral cumulation

46A2.33 Procedures for bilateral cumulation are specified in rule 46A2.17.

Sub-section 6 – Ceuta and Melilla

46A2.34 Article 97j in paragraphs 1 and 2 and Article 97w state:

- (a) Provisions of Commission Regulation (EU) No. 1063/2010) that apply *mutatis mutandis* to Ceuta and Melilla;
- (b) that Ceuta and Melilla must be regarded as a single territory and that the Spanish Government is responsible for the application of those provisions.

46A2.35 Amendment of Certificate of Origin Form A

- (a) Annex V to Commission Regulation (EU) No. 1063/2010 provides that the title and the introductory notes and the notes relating to the specimens of the form are replaced.
- (b) In terms of paragraph 4 of the introductory notes to the Certificate of Origin Form A, certificates bearing the older versions of the notes on the back of the form (1996, 2004 and 2005) may also be used until existing stocks are exhausted.”
- (c) By the insertion in the rules for section 46A before the rules for section 47B of Certificate of Origin Form A contained in the following Annex:

“Annex

1. Goods consigned from (exporter's business name, address, country)			Reference No. <div style="text-align: center;">A</div> <div style="text-align: center;">GENERALISED SYSTEM OF PREFERENCES</div> <div style="text-align: center;">CERTIFICATE OF ORIGIN (Combined declaration and certificate)</div> <div style="text-align: center;">FORM A</div> <div style="text-align: center;"> Issued in: Country </div> <div style="text-align: right;"><i>See notes overleaf</i></div>		
2. Goods consigned to (consignee's name, address, country)					
3. Means of transport and route (as far as known)			4. For official use		
5. Item number	6. Marks and numbers of packages	7. Number and kind of packages; description of goods	8. Origin criterion (see notes overleaf)	9. Gross Weight or other quantity	10. Number and date of invoices
11. Certification It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.			12. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in <div style="text-align: center;">(country)</div>		

<p>.....</p> <p>.....</p> <p>.....</p> <p>(Place and date, signature and stamp of certifying authority)</p>	<p>and that they comply with the origin requirements specified for those goods in the generalised system of preferences for goods exported to</p> <p>.....</p> <p>.....</p> <p style="text-align: center;">(Importing country)</p> <p>.....</p> <p>.....</p> <p>(Place and date, signature or authorised signatory)</p>
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Notes (2007)			
I Countries which accept Form A for the purposes of the Generalised System of Preferences (GSP):			
Australia (*)	European Union:		
Belarus	Austria	Finland	Netherlands
Canada	Belgium	France	Poland
Japan	Bulgaria	Hungary	Portugal
New Zealand (**)	Cyprus	Ireland	Romania
Norway	Czech Republic	Italy	Slovakia
Russian Federation	Denmark	Latvia	Slovenia
Switzerland including Liechtenstein	Estonia	Lithuania	Spain
(***)			
Turkey	Germany	Luxembourg	Sweden
United States of America (****)	Greece	Malta	United Kingdom

Full details of the conditions covering admission to the GSP in these countries are obtainable from the designated authorities in the exporting preference-receiving countries or from the customs authorities of the preference-giving countries listed above. An information note is also obtainable from the UNCTAD secretariat.

(*) For Australia, the main requirement is the exporter's declaration on the normal commercial invoice. Form A, accompanied by the normal commercial invoice, is an acceptable alternative, but official certification is not required.

(**) Official certification is not required.

(*** The Principality of Liechtenstein forms, pursuant to the Treaty of 29 March 1923, a customs union with) Switzerland

(*** The United States does on require GSP Form A. A declaration setting forth all pertinent detailed *) information concerning the production or manufacture of the merchandise is considered sufficient only if requested by the district collector of customs.

I General conditions

I

To qualify for preference, products must –

- (a) fall within a description of products eligible for preference in the country of destination. The description entered on the form must be sufficiently detailed to enable the products to be identified by the customs officer examining them;
- (b) comply with the rules of origin of the country of destination. Each article in a consignment must qualify separately in its own right; and
- (c) comply with the consignment conditions specified by the country of destination. In general products must be consigned directly from the country of exportation to the country of destination, but most preference-giving countries accept passage through intermediate countries subject to certain conditions (For Australia, direct consignment is not necessary.).

Continues overleaf

III Entries to be made in Box 8

Preference products must either be wholly obtained in accordance with the rules of the country of destination or sufficiently worked or processed to fulfil the requirements of that country's origin rules.

(a) Products wholly obtained:

For export to all countries listed in Section I, enter the letter “**P**” in Box 8 (for Australia and New Zealand, Box 8 may be left blank).

(b) Products sufficiently worked or processed:

For export to the countries specified below, the entry in Box 8 should be as follows:

(1) United States of America:

For single country shipments, enter the letter “**Y**” in Box 8

For shipments from recognized associations of countries, enter the letter “**Z**”, followed by the sum of the cost or value of the domestic materials and the direct cost of processing, expressed as a percentage of the ex-factory price of exported products (example: “**Y**” 35% or “**Z**” 35%).

(2) Canada:

For products which meet origin criteria from working or processing more than one eligible least developed country, enter letter “**G**” in Box 8, otherwise “**F**”.

(3) The European Union, Japan, Norway, Switzerland including Liechtenstein, and Turkey:

Enter the letter “**W**” in Box 8 followed by the Harmonized Commodity Description and Coding System (Harmonized System) heading at the four-digit level of the exported product (example: “**W**” 96.18).

(4) Russian Federation:

For products which include value added in the exporting preference-receiving country, enter the letter “**Y**” in Box 8, followed by the value of imported materials and components expressed as a percentage of the **fo**b price of the exported products (example: “**Y**” 45%);

For products obtained in a preference-receiving country and worked or processed in one or more other such countries, enter “**Pk**”.

(5) Australia and New Zealand:

Completion of Box 8 is not required. It is sufficient that a declaration be properly made in Box 12.”

"Part 3

Non-reciprocal tariff treatment under the Generalised System of Preferences (GSP) granted to developing countries by the Russian Federation

46A3.01 (a) The rules numbered 46A3 are rules contemplated in sections 46(4)(d) and 46A(4)(b) in respect of the enactments of the Russian Federation relating to the Generalised System of Preferences (GSP) wherein are prescribed the origin and other requirements in terms of which goods exported from a developing country (which in terms of a Decree of the Russian Federation of 18 March 2003, includes the Republic with effect from 1 April 2003), will qualify for preferential tariff treatment on importation into the Russian Federation.

(b) The enactments of the Russian Federation to which these rules relate are the following English versions received from the South African Embassy in Moscow:

“(i) **AGREEMENT ON THE RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCE (MOSCOW, APRIL 12, 1996)**

(An Agreement between the Governments of the Commonwealth of Independent States);

(ii) **RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCE**

(Appendix to the Agreement referred to in these rules as RO Rules. In terms of Article 1 of the Agreement the Contracting Parties (the Governments of the Commonwealth Member States) accept these Rules, which are stated to be an integral part of the Agreement. The contents of the Decisions to which the two paragraphs preceding the text of the Agreement refer do not affect the wording of the Rules contained in the Appendix referred to in this subparagraph. The order referred to in the final paragraph of Rule 5 has been substituted by Order No. 223-r a translation of which is included with the enactments on the SARS website.);

- (iii) **PROTOCOL ON THE AMENDMENTS AND ADDENDA TO THE RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCES PROVIDED BY AGREEMENT ON THE RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCES DATED 12 APRIL 1996;**
- (iv) **THE REQUIREMENTS APPLIED TO THE COMPLETING OF THE CERTIFICATE OF ORIGIN (COMBINED DECLARATION AND CERTIFICATE) FORM “A”** (referred to in these rules as RCO requirements) (Enclosure to the Protocol);
- (v) **LIST OF THE GOODS IMPORTED TO THE TERRITORY OF THE RUSSIAN FEDERATION ORIGINATED FROM THE DEVELOPING AND LEAST DEVELOPING, ON WHICH THE REGIME OF PREFERENCES IS APPLIED TO;**
- (vi) **LIST OF THE COUNTRIES USERS OF THE PREFERENTIAL SCHEMES WHEN IMPORTING TO THE TERRITORY OF THE RUSSIAN FEDERATION.”**

Note: These enactments are included on the SARS website
www.sars.gov.za.

- (c) (i) Expressions used in the rules with reference to any enactment of the Russian Federation shall, unless the context otherwise indicates, have the meaning assigned thereto in the said enactment or relevant provisions of the Act or as defined in these rules.
- (ii) The provisions of rules 46A3.08, 46A3.09, 46A3.10, 46A3.11, 46A3.12 and 46A3.13 follow in part respectively the contents of Community Regulation 2454/93 (as amended) Articles 70, 70a, 73, 74, 75, and 77, to which the rules numbered 46A2 relate, as the RO rules do not specify such provisions.

- (d) (i) Any reference to legislation of the Russian Federation in these rules is merely quoted to facilitate tracing relevant provisions in the enactments and exporters are cautioned to study each enactment as a whole and in context to verify requirements in each case and not to rely solely on such reference.
- (ii) Where any rule reflects an alphabetical prefix or alphabetical prefixes or words and a number or numbers in brackets in any heading to the rule, such a reference refers to an enactment and its number of the Russian Federation, for example:

“RO Rule 3 RO Rule followed by a number refers to the relevant Rule of the Russian Federation enactment: Rules of determining the origin of goods of developing countries when granting tariff preferences within the General System of Preferences.”

- (e) In the application of provisions of the Act to any enactment -

- (i) the following expressions in any enactment of the Russian Federation shall have the meanings assigned thereto in this paragraph:

“authority or authorities”, “competent authority”, “competent bodies”, “competent national bodies”, “customs bodies”, “relevant authority”, or “relevant body authorised to issue the Certificates” means, with effect from the date these rules come into operation, the Commissioner, or in accordance with any delegation in these rules, the Head Customs Operations Support in the Operational Service division of the South African Revenue Service, the Controller or any other officer;

“Certificate of Origin Form A” or “Form A” means the Generalised System of Preferences, Certificate of Origin (combined declaration and certificate) Form A referred to in the enactment specified in paragraph (b)(iv), which is issued in a beneficiary country as proof of origin and of which numbered sets are provided by the South African Revenue Service as stated in rule 46A3.16;

“customs cost” means the customs value of imported goods calculated or determined in accordance with the provisions of sections 65, 66, 67 and 74A;

“developing country” or **“developing countries”**, includes the Republic, but excludes a least developed country listed in the “List of the countries users of the preferential schemes when importing to the territory of the Russian Federation” referred to in paragraph (b)(vi);

“Direct delivery” in respect of imported goods, means goods invoiced to an importer in the Republic by an exporter in the Russian Federation and transported directly therefrom to that importer, arriving in the same ship, aircraft or container on which they were loaded on exportation;

“FOB basis” used in the instructions for the completion of Box 8 of Form A means the price free on board of goods exported contemplated in section 72;

“HS Code” means, for the purposes of any meaning ascribed to any expression in any provision of origin in any enactment or these rules, the provisions of Part 1 of Schedule No. 1, except national subheadings or additional section or chapter notes and the rates of duty applicable to the classification of any goods in any chapter or heading or subheading, and for the purposes of interpretation of Part 1 of Schedule No. 1, includes application of the Explanatory Notes to the Harmonized System as required in terms of section 47(8)(a);

“origin”, “originate”, “originating status” and cognate expressions, relate to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in an enactment;

“price free ex manufacturing works” referred to in RO Rule 3, which is reproduced in rule 46A3.06, means the price paid for the goods ex manufacturing works to the manufacturer in whose

undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the goods obtained are exported;

“tariff preferential treatment” or **“tariff preferences”** or **“regime of preferences”** shall have the meaning assigned to tariff preferential treatment in section 46A (1);

- (ii) the expression -
“enactment” means an enactment as defined in section 46A(1) and includes any legislative enactment specified in paragraph (b), any amendment thereof or any directive in connection therewith issued by the Russian Federation;

“exporter” means a registered exporter as contemplated in section 46A(6);

“goods” as used in these rules means depending on the context, **“goods”** or **“products”** or **“materials”** as contemplated in an enactment and defined in section 1;

“GSP” means the Generalised or General System of Preferences as in operation in the Russian Federation in terms of which non-reciprocal preferential tariff treatment is granted to goods originating in developing countries which include the Republic;

“Harmonized System” shall have the meaning assigned to **“HS Code”**;

“invoice declaration” means a declaration by an exporter on the invoice or other shipping documents in respect of small consignments contemplated in RO Rule 5 (Documentary Certificate);

“manufacturer” means a registered manufacturer as contemplated in section 46A(6) and includes, depending on the context, a **“producer”**;

“producer” means a registered producer as contemplated in section 46A(6) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products and depending on the context, any person that manufactures, processes or assembles goods or any combination thereof;

“relevant enactment” means any enactment of the Russian Federation;

“Republic” means the Republic of South Africa;

“RCO Requirements” means the requirements applied to the completing of the certificate of origin (combined declaration and certificate) Form “A” referred to in paragraph (b)(iv);

“RO Rules” means the Rules of determining the origin of goods of developing countries when granting tariff preferences within the general system of preferences referred to in paragraph (b)(ii);

“SACU” means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland;

“sufficiently worked” means the working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status prescribed in RO Rule 3;

(iii) for the purposes of RO Rule 2 -

“ships of said country”, “ships rented or chartered by said country”, floating fish-factories of said country”, “floating fish-factories chartered by said country” -

- (aa) means ships which are owned or rented or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic or by a natural person who is ordinarily resident in the Republic; and
- (bb) includes “**registered**” or “**of South African nationality**” as contemplated in the Merchant Shipping Act No. 57 of 1951.”

46A3.02 Exporters must ascertain precise qualifying requirements and extent of benefits from the importer or the customs authority in the Russian Federation

- (a) The English versions of the enactments of the Russian Federation referred to in these rules have been obtained from the South African Embassy in Moscow.
- (b) The translations are not clearly worded in some respects and care must therefore be exercised in applying any provision and the South African Revenue Service cannot warrant that the enactments are free from errors or up to date or otherwise complete, and having regard to the provisions of section 46A(7), it is the duty of exporters to ascertain particulars or confirmation of the precise qualifying requirements and the extent of any benefit from the importer or the customs authority in the Russian Federation.

46A3.03 (a) Subject to section 3(2), any power, duty or function contemplated in sections 46(4)(d) and 46A(4) is delegated to the extent specified in these rules to the Head Customs Operations Support in the Operational Service division of the South African Revenue Service, the Controller or any officer designated to exercise such power or perform such duty or function.

- (b) For the purposes of paragraph (a) any officer authorised by the Manager: Origin or by a Controller may exercise any power or duty or function conferred or imposed on customs authorities in any enactment or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of such enactment.

46A3.04 Transitional arrangements

- (a) The responsibility of the South African Revenue Service for the administration of the GSP in respect of the Russian Federation commences on the date these rules come into operation.
- (b) Any matter arising from the administration of the GSP before that date, must be finalised with the existing offices in the Department of Trade and Industry responsible for the administration of the GSP before the date these rules came into operation.

46A3.05 Registration of exporter and producer

For the purposes of section 46A(6) and section 59A -

- (a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, a completed Annexure DA 185.4A2 and exporter's application for registration (DA 46A1.02 incorporated in Section C thereof); and
 - (ii) a producer, a completed Annexure DA 185.4A7;
- (b) if the exporter is also the producer of the goods concerned, application for registration as an exporter as well as a producer must be so submitted.

Rules relating to enactments of the Russian Federation prescribing requirements concerning origin and proof of origin in respect of goods exported from developing countries

46A3.06 RO "Rules of determining the origin of goods of developing countries when granting tariff preferences within the General System of Preferences"

- (a) In terms of RO Rule 1, goods are regarded as originating in a developing country which is subject to the tariff preferential treatment where the goods are -
 - (i) wholly produced in such country (specified in RO Rule 2);
 - (ii) produced in such country by using raw materials, semi-finished or finished items originating from another country or goods of unknown origin provided the goods have been put through

sufficient finishing or processing in such country in accordance with RO Rule 3.

- (b) In terms of RO Rule 3 goods are considered to have been put through sufficient finishing or processing in a developing country which is subject to the tariff preferential treatment in the following circumstances:
- “(a) the goods have undergone sufficient finishing or processing in a developing country which is subject to the tariff preferential treatment and the value of the goods utilized in that process (feedstock, semi-finished and finished goods) originating from other countries which are not subject to the tariff preferential treatment or the goods of unknown origin do not exceed 50% of the value of the goods exported by a developing country which is subject to the tariff preferential treatment;
- (b) the goods have undergone finishing or processing in several developing countries which are subject to the tariff preferential treatment and the value of the goods utilized in the process originating from other countries which are not subject to the tariff preferential treatment or the goods of unknown origin do not exceed 50% of the value of the goods exported by one of the developing countries which is subject to the tariff preferential treatment;
- (c) the goods have been produced in one of the developing states which are subject to the tariff preferential treatment and have been put through finishing or processing in other, one or several developing countries which are subject to the tariff preferential treatment.

The value of the goods mentioned under Sub-items (a) and (b) hereof that originate from the country not subject to the tariff preferential treatment shall be determined on the basis of the customs cost of said goods fixed in the manufacturing country of the exported goods.

The value of the goods of unknown origin mentioned under Sub-items (a) and (b) hereof, shall be set as equal to the price paid for the said goods in the territory of a developing country – a manufacturer of the exported goods.

The goods (raw materials, semi-finished and finished products) taken from one of the countries granting preferences into the country which is subject to the tariff preferential treatment and utilized there for the production of goods to be exported into the same country that grants preferences shall be

deemed as the goods that have been produced in said developing country – the exporter.

The value of the goods exported by a developing country shall be determined on the basis of the price free ex manufacturing works.”

- (c) Originating goods are eligible, on importation into the Russian Federation, to benefit from the relevant tariff preferences provided:
 - (i) the conditions of “**direct purchase**” and “**direct delivery**”, stated in RO Rule 4, which are reproduced in rule 46A3.14, are complied with;
 - (ii) a valid Certificate of Origin Form A is produced and in terms of RO Rule 5 -
 - (aa) a Form A is valid for 12 months from the date of issue thereof;
 - (bb) Form A must be submitted to the customs authorities in printed form, free from corrections in English;
 - (cc) a discrepancy of not exceeding 5% between the quantities of goods actually delivered and those stated on the Form A is allowed on importation into the Russian Federation;
 - (dd) where a Form A is lost, a duly completed duplicate may be accepted which may be applied for in accordance with the procedures specified in rule 46A3.18;
 - (ee) a presentation of Form A is not required for small consignments of a total value of not exceeding US \$ 5 000, for which procedures are prescribed in Rule 46A3.20;
 - (iii) the Russian Federation must have received from the developing country which have been granted tariff preferences, the names, addresses and imprints of seals of competent bodies authorised to issue certificates as specified in RO Rule 6 (Customs Co-operation);
- (d) For the purposes of these requirements -
 - (i) exporters and producers (as defined) must ensure that proper records are kept to prove the originating status of goods exported (whether for completion of Form A or a declaration for small consignments) under the GSP scheme as specified in these rules;
 - (ii) exporters must produce a duly completed application form and submit the necessary supporting documents proving the originating

status of the goods concerned when applying for certification of Form A.

- (e) Whenever originating status is claimed for any goods contemplated in RO Rule 3, the exporter shall, in addition to any other documentation that may elsewhere be specified in these rules, keep available for inspection all appropriate records to prove compliance with the conditions in terms of which goods are considered to have been put through sufficient finishing or processing in a developing country for the purposes of preferential tariff treatment in the Russian Federation.
- (f)
 - (i) Where goods are exported from the Russian Federation to the Republic for working or processing as contemplated in the penultimate paragraph of RO Rule 3, the bill of entry import must be endorsed **“Goods originating in the Russian Federation for working or processing in the Republic”**.
 - (ii) In respect of goods that have been so worked or processed, the words **“Russian Cumulation”** must be inserted in Box 4 of Form A as specified in rule 46A3.16(h).

46A3.07 Goods wholly obtained in a GSP developing country
Goods wholly obtained must be so described on Form A or any invoice declaration and any bill of entry for export, for example, **“coal (wholly obtained)”**.

46A3.08 Insufficient working or processing

- (a) Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out to distinguish sufficient and insufficient working.
- (b) The following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of RO Rule 3 are satisfied:
 - (i) operations to ensure the preservation of goods in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

- (ii) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;
 - (iii) (aa) changes of packing and breaking-up and assembly of packages;
 - (bb) simple placing in bottles flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;
 - (iv) affixing marks, labels and other like distinguishing signs on products or their packaging;
 - (v) simple mixing of products, whether or not of different kinds, where one or more components of the mixture do not meet the conditions to enable them to be considered as originating in a beneficiary country or in the Russian Federation;
 - (vi) simple assembly of parts to constitute a complete product;
 - (vii) a combination of two or more of the operations specified in (i) to (vi);
 - (viii) slaughter of animals.
- (c) All the operations carried out in either a beneficiary developing country or the Russian Federation on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph (b).

46A3.09 Unit of qualification

- (a) The unit of qualification for the application of the provisions to determine origin shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System.
- (b) Accordingly, it follows that -
 - (i) when a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;
 - (ii) when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each

product must be taken individually when applying the provisions for determining origin.

- (c) Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

46A3.10 Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

46A3.11 Sets

- (a) Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all the component products are originating products. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the ex-works price of the set.
- (b) Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purposes of application of the relevant provisions of origin.

46A3.12 Neutral elements

In order to determine whether a product is an originating product, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter, and which are not intended to enter, into the final composition of the product.

46A3.13 Re-importation of goods exported

- (a) The conditions set out in enactments of the Russian Federation for acquiring originating status must continue to be fulfilled at all times in the Republic or in the Russian Federation.
- (b) If originating products exported from the Republic or from the Russian Federation to another country are returned, they must be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that -
 - (i) the products returned are the same as those which were exported; and
 - (ii) they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.
- (c) For the purposes of application of the relevant enactments “**exported**” includes goods removed to any SACU country other than the Republic.
- (d) When entering any goods for which originating status as contemplated in any relevant enactment is claimed on re-importation, it must be proved that the goods returned -
 - (i) are the same as those which were exported;
 - (ii) have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

46A3.14 Direct purchase and direct delivery (RO Rule 4)

- (a) (i) In terms of RO Rule 4:
 “The tariff preferences with regard to the goods originating from developing countries which are subject to the tariff preferential treatment shall be granted only under the condition of direct purchase of such goods in those countries and direct delivery thereof to the country granting tariff preferences.

The goods shall be considered as directly purchased if the importer has acquired them from a person registered according to the established procedure as the subject of business activity in a

developing country which is subject to the tariff preferential treatment.

The direct delivery shall be the delivery of goods transported from a developing country which is subject to the tariff preferential treatment to the country granting tariff preferences without the transit through the territory of any other state.

The rule of direct delivery shall be met by the goods transported through the territory of one or several countries due to geographic, transport, technical or economic reasons, provided that the goods in the countries of transit, including during their temporary storage in the territory of those countries shall be under customs control.”

- (ii) When goods are exported from the Republic to the Russian Federation, the exporter in the Republic must produce the evidence that will be required on importation into the Russian Federation to the Controller together with the application for the issuing of Form A, the completed Form A and other prescribed export documents.
- (b) (i) The provisions of this rule in respect of imported goods only relate to goods originating in the Russian Federation that are imported into the Republic for finishing or processing in the Republic as contemplated in the penultimate paragraph of RO Rule 3 and in rule 46A3.06(f):
- (ii) The evidence required in respect of goods which have not been transported directly between the Russian Federation and the Republic shall be produced to the Controller at the time of entry with the other documents contemplated in section 39.
- (iii) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on furnishing of a provisional payment or other security pending production of the documents necessary to prove the originating

status of the goods and compliance with the requirements stated in RO Rule 4.

- (iv) As evidence may be produced -
 - (aa) a single transport document, which may include a through bill of lading or air waybill indicating a contract for the carriage of goods from the country concerned to the Republic;
 - (bb) other substantiating documents which must provide the facts specified therein and may include a declaration by the exporter supported by a statement from the customs authorities of the country concerned that according to their investigations the facts contained in the declaration are correct or to the extent that although all the facts have not been verifiable they have no reason to doubt their correctness.

46A3.15 Exhibitions (RO Rule 4)

- (a) (i) In terms of RO Rule 4 -

“The rule of direct delivery shall also be observed by the goods purchased by the importer at exhibits or fairs subject to the compliance with the following conditions:

 - (aa) the goods have been delivered from the territory of a developing country which is subject to the tariff preferential treatment to the territory of a country of holding an exhibition or fair and have been kept under customs control during the duration of the same;
 - (bb) the goods have not been used since their despatch to an exhibit or fair for any other purpose, except for the purpose of demonstration;
 - (cc) the goods are imported into the country granting tariff preferences in the same condition in which they have been delivered to an exhibit or fair disregarding the change in the goods condition due to the natural wear and tear or a loss under the normal conditions of transportation and storage.”
- (ii) When goods are exported from the Republic to the Russian Federation, the exporter in the Republic must produce the evidence

that will be required on importation into the Russian Federation to the Controller together with the Application for Certificate of Origin Form A, the completed Form A and other prescribed export documents.

- (b) (i) The provisions of this rule in respect of imported goods only relate to goods originating in the Russian Federation that are imported into the Republic for finishing or processing in the Republic as contemplated in the penultimate paragraph of RO Rule 3 and in rule 46A3.06(f).
- (ii) When entering such imported goods -
 - (aa) the provisions of paragraph (a)(i) shall apply *mutatis mutandis*;
 - (bb) the importer must produce from the exporter in the Russian Federation -
 - (A) an invoice endorsed with the statement
**“these goods were consigned to you from
.....(name and place of
exhibition)”**
 - (B) a statement confirming the relevant particulars specified in paragraph (a)(i) as they apply to such goods.

46A3.16 Requirements applied to the completion of the Certificate of Origin (combined declaration and certificate) Form A

- (a) Numbered Certificates of Origin Form A have been printed and are available on application from the South African Revenue Service at the offices of the Controllers specified in paragraphs (a) and (b) of item 200.03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to the Russian Federation.
- (b) (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
- (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.
- (iii) (aa) The Form A, export bill of entry, application form and supporting documents for each consignment must be

delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Origin otherwise determines.

- (bb) Every export bill of entry shall be endorsed -

 - (A) whether Form A or an invoice declaration is produced;
 - (B) with the Form A number, if applicable.
- (cc) “**Supporting documents**” include those contemplated in paragraph (ij).
- (dd) In addition to any copies required in terms of other export clearing procedures, the exporter or his or her agent must also submit for retention by the Controller -

 - (A) an additional copy of the bill of entry export;
 - (B) copies of the documents specified in subparagraph (aa);
 - (C) a copy of the export invoice (endorsed with the invoice declaration, where applicable), a copy of the bill of lading, air waybill or the transport document, and producer’s declaration, where applicable.
- (ee) If an invoice declaration is produced after export, a copy of the relevant export bill of entry must be submitted therewith to the officer.
- (ff) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter’s records.
- (iv) The officer processing the documents must check the copy of Form A submitted for retention to verify whether it is a true copy of the original and if satisfied must certify it as such.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the Form A and the application form.
- (d) The authorisation must be completed on the exporter’s own letter-headed paper and confirm full details of the agent’s name and address and the full names of the staff who will complete and sign the said forms.

- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in the relevant enactment.
- (f) The letter of authority shall be submitted together with the completed Form A and application form and will be retained by the Controller.
- (g) (i) Completion of a Form A or an invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the relevant enactment.
- (ii) Form A must be accompanied by the Application for Certificate of Origin Form A (DA 46A.03) and if the exporter is not the producer a Declaration by Producer (Form DA 46A.04).
- (h) Form A must be completed to be authentic in accordance with the notes on the reverse thereof and the instructions in the relevant enactments and the following requirements:
- (i) (aa) The certificate must be completed in English;
- (bb) the certificate must be completed by using a printing process;
- (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

- The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic.

Box 2

- Insert the consignee's name, address and country.
- If the name of the consignee in the Russian Federation is not known at the time the certificate is issued, the words **“to order”** or **“Russian Federation”**, may be printed in this Box. The consignee's name and address may in addition be

printed after the words **“to order”** or after **“Russian Federation”** (according to the ROC Requirements).

Box 3

- Insert the details which will be inserted on the export bill of entry.

Box 4

- Insert the bill of entry export number and date, client number of the exporter referred to in rule 59A.06(1) and one of the following endorsements where necessary:
 - **“Duplicate”** (where application is made for a duplicate);
 - **“Issued retrospectively”** (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof);
 - **“Issued instead of**” (the number and date of the cancelled certificate, where application is made to replace a cancelled certificate);
 - **“Russian Cumulation”** (where goods have acquired originating status by cumulation of origin involving products originating in the Russian Federation as contemplated in the penultimate paragraph of RO Rule 3 and in rule 46A3.06(f))

Boxes 5 and 6

- Enter the item numbers in Box 5 and identifying marks and numbers in Box 6.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- If they are not marked, state **“No marks and numbers”**.
- No space must be left between items.

Box 7

- State number and kind of the packages.
- For goods in bulk which are not packed, insert **“In Bulk”**.
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.
- The goods must be identified by giving a reasonably full commercial description supplemented where necessary by information which enable the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111).
- If both originating and non-originating goods are packed together, describe only the originating goods and add at the end **“Part contents only”**.
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk (*) on the invoice and the following statement put in Box 7, below the description of the goods:
 - **“Goods marked * on the invoice are non-originating and are not covered by this Form A”**.
- If the space in the column is insufficient, additional sheets may be used on which the serial number of the certificate must be quoted and which must be signed by the person signing the declaration in Box 12 and signed by the officer who signs and stamps Box 11, by using the same special stamp for both impressions.
- Draw a horizontal line under the only or final item in Box 7 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 8

- Enter the letter –
 - **“P”** for goods wholly produced;
 - **“Y”** where goods have been sufficiently finished or processed using imported raw materials, half-finished

products, or assemblies or components originating in any other country or of unknown origin. The percentage to be inserted after “Y” shall be calculated as indicated in paragraph (b)(4) of the Notes on the reverse of Form A;

- “Pk” where goods have undergone sufficient finishing or processing in any other developing country receiving tariff preferential treatment in terms of the RO Rules or have undergone finishing or processing in several such countries (as provided in the RCO requirements referred to in rule 46A3.01(b)(iv) and to which the instruction in the said paragraph (b)(4) relates).

Box 9

- Insert gross metric measures or any other quantity required for each item.

Box 10

- Insert the invoice number and date.

Box 11

- Certification -
 - The officer must print his or her initials and surname below his or her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him or her for this purpose.

Box 12

- The box must be duly completed and the initials and surname and capacity of the person signing the certificate must be stated below the signature.
- If the certificate is signed by a clearing agent on behalf of an exporter, the name of the clearing agent must be stated below the signature.
- The signature must not be mechanically reproduced or made with a rubber stamp.

- No certificate shall be valid –
 - if any entered particulars are incorrect and not in accordance with these rules;
 - if it contains any erasures or words written over one another;
 - if altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are signed in full by the person who completed the certificate and endorsed by the officer who signs the certificate.

Application form for certification of Form A

(ij) For the purposes of verification of the originating status of goods declared in the Application for Certificate of Origin Form A (form DA 46A.03) the exporter, whether –

- (i) the manufacturer in whose undertaking the last working or processing was carried out; or
- (ii) an exporter who has bought in the goods from a manufacturer for exportation in the same state; or
- (iii) an exporter who re-exports in the same state goods imported from the Russian Federation or re-exports goods re-imported as contemplated in rule 46A3.13,

must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including (as may be applicable) -

- (aa) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or producer to obtain the goods concerned, movement certificates and invoice declarations authorised in terms of the relevant enactment, proving the originating status of goods imported and re-exported or materials used and producer's declaration (form DA 46A.04);
- (bb) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
- (cc) documents proving the value of materials used and added value;

- (dd) costing records showing the calculation of the ex-works price as defined in these rules.
- (k) The requirements for signing the declaration on Form A are also applicable in respect of the application form which must –
 - (i) bear the original signature of the person signing the declaration; and
 - (ii) be signed by the same person who signed the declaration on the Form A.
- (l) The exporter must –
 - (i) ensure that the application is duly completed;
 - (ii) submit the supporting documents specified in paragraph (3) of the declaration; and
 - (iii) include any relevant documents referred to in paragraph (ij);
- (m) Where the officer has reasonable doubts about the correctness of the statements made on the Application for Certificate of Origin Form A, such officer may -
 - (i) request the exporter or manufacturer to produce documentary proof of origin;
 - (ii) detain and examine the goods entered for export;
 - (iii) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the Application for Certificate of Origin Form A; and
 - (iv) refuse to issue the Form A until he or she is satisfied that the originating requirements of the enactments have been complied with.
- (n) Invoice declarations may be issued instead of Form A in respect of small consignments as prescribed in rule 46A3.20.

46A3.17 Certificate of Origin Form A issued retrospectively (RCO Requirements)

- (a) (i) The exporter may only apply for the issue of a Certificate of Origin Form A after exportation at the office of the Controller where the goods were originally entered for export.
- (ii) Form A may only be issued after exportation of the products to which it relates, if -

- (aa) it was not issued at the time of exportation because of errors or accidental omissions or special circumstances; or
 - (bb) it is demonstrated that a Form A was issued but not accepted on importation of the goods in the country of destination for technical reasons.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by -
 - (i) a completed Form A and its application form of which -
 - (aa) Box 4 shall be endorsed “**issued retrospectively**”; and
 - (bb) if a Form A has not been issued previously for the goods concerned, the declaration by the exporter on form DA 46A.03 shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of the relevant enactment;
 - (iv) full reasons of the circumstances in which a retrospectively issued Form A is required.
- (c) Before such application is considered, an officer will first conduct an examination for verification that the particulars contained in the exporter’s application conform to those contained in the corresponding export documents.
- (d) The application for the issue of a Certificate of Origin Form A retrospectively shall be considered by the Controller.

46A3.18 Issue of a duplicate Certificate of Origin Form A (RCO Requirements)

- (a) The exporter shall furnish to the officer at the office of the Controller where the original Form A was issued -
 - (i) a written statement giving reasons why a duplicate is required and the number and date of the original Form A;

- (ii) a completed Form A and application form reflecting the word **“DUPLICATE”** and the number and date of the original form in Box 4;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued.
- (b) The officer shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original Form A was issued.

46A3.19 Issue of a new certificate for a cancelled Certificate of Origin Form A (RCO Requirements)

- (a) In terms of the RCO Requirements where an earlier issued certificate has been cancelled, Box 4 of the newly issued certificate must reflect the wording **“issued instead of”** (the number and date of the cancelled certificate).
- (b) The provisions of rule 46A3.18 shall apply *mutatis mutandis* in respect of the application for such a certificate.

46A3.20 Invoice declarations for small consignments (RO Rule 5)

- (a)
 - (i) In terms of RO Rule 5, presentation of Form A is not required in respect of a small consignment of a total value not exceeding US \$ 5 000 in which case the exporter may declare the country of origin on the invoice or other shipping documents.
 - (ii) Where there are reasonable doubts as to the accuracy of such origin declaration, the exporter will be required to apply for issuance of Form A.
- (b) Every exporter must -
 - (i) ensure that the goods comply with the relevant provisions of origin at the time of export;
 - (ii) be in possession of the records and documents providing the originating status of the goods exported;
 - (iii) use serially numbered invoices;

- (iv) insert a reference number or other particulars on any invoice, delivery note or other commercial documents according to which the goods can be readily identified in such records and documents;
- (v) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
- (vi) insert on any such document the applicable tariff heading;
- (vii) indicate clearly on such documents by means of an asterisk (*) and statement goods which are not of preferential origin; and
- (viii) insert on three copies of the invoice (or other documentation) in English the declaration specified below, which shall -
 - (aa) be dated and bear the original signature of the exporter in manuscript; and
 - (bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature.

“The exporter of the products covered by this document declares that, except where otherwise clearly indicated, these products are of preferential origin according to the rules of origin of the Generalised System of Preferences of The Russian Federation.

.....
(Place and date)

.....
(Signature of the exporter)”

(Note: In addition the name of the person signing the declaration has to be indicated in clear script.)

- (ix) The documents referred to in subparagraph (viii) shall be dealt with by -
 - (aa) forwarding one copy of the document on which the declaration is made to the consignee;

- (bb) including with the other export documentation one such copy and, if it is not an invoice, a copy of the invoice for retention by the Controller; and
 - (cc) creating a file for storing a copy of the invoice, such delivery note or other commercial document and supporting evidence to prove the origin of the goods.
- (c) Any exporter who issues any invoice declaration may be prohibited from issuing such declarations where such exporter -
 - (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of the relevant enactment or these rules;
 - (iii) fails to notify the Manager: Origin that the goods no longer fulfil the required origin conditions (for example, by change of sources or materials).
- (d) If an exporter has been so prohibited from using invoice declarations, such exporter shall apply for Form A in respect of all exports for which originating status is claimed.
- (e)
 - (i) If any invoice declaration is required to be made after exportation, the documents reflecting the invoice declaration together with the copies of the other documents produced at the time of export and the documents proving originating status shall be produced and application shall be made to the Controller where the goods were entered for export.
 - (ii) The provisions of rule 46A3.17 shall apply *mutatis mutandis* to such application.

46A3.21 Submission of proof of origin in respect of imported and exported goods (RO Rule 5)

- (a)
 - (i) These provisions are only applicable in respect of imported goods originating in the Russian Federation that are imported into the Republic for finishing or processing in the Republic as contemplated in RO Rule 3 and rule 46A3.06(f).

- (ii) Any proof of origin in respect of imported goods must be -
 - (aa) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
 - (bb) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
 - (cc) in English and if not so, a translation must be attached thereto.

- (b) (i) Exporters must submit the Form A or the invoice declaration as proof of origin to reach the importer timeously in the country of destination as such proof of origin must be produced to the customs authorities in the country concerned within 12 months from the date of issue in the Republic.

- (ii) After such period, proof of origin is only accepted -
 - (aa) if failure to observe the time limit is due to exceptional circumstances; or
 - (bb) where the goods have been submitted to the customs authorities in the country of destination before the final date of expiry.

46A3.22 Exportation by instalments (RO Rule 3)

When such goods are exported to the Russian Federation, one Form A shall be issued and submitted to the importer on exportation of the first instalment.

46A3.23 Notification of competent bodies (RO Rule 6)

- (a) The Commissioner will supply the Russian Federation with imprints of customs stamps and other information relating to the issuance of certificates.
- (b) The customs stamp of which the imprint is supplied to the Russian Federation must be used for issuing Form A.

46A3.24 Mutual assistance (RO Rule 6)

The Manager: Origin shall be responsible for rendering any assistance contemplated in the relevant enactment to the customs administration of the Russian Federation.

46A3.25 Verification of proof of origin (RO Rule 6)

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the exporting country.
- (b)
 - (i) If a request for verification of proof of origin is received from the customs authorities in the Russian Federation, the exporter, manufacturer, producer or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfilment of the other requirements of any enactment.
 - (ii) The Russian Federation will only grant the tariff preference after receipt of a satisfactory response to the request.
- (c) The Manager: Origin shall determine whether or not to refuse entitlement to preferences in respect of imports from the Russian Federation for cumulation purposes as contemplated in rule 46A3.06.

46A3.26 Keeping of books accounts and other documents

- (a) Any books, accounts and other documents kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for the proving of the originating status of the goods and for fulfilling of the other requirements of the relevant enactment.
- (b) Every exporter or producer or any other person contemplated in section 46A(3)(b) shall maintain and keep for a period of three years from the date goods were exported, complete books, accounts or other documents relating to the origin of goods for which preferential tariff treatment was claimed including any such books, accounts or other documents in connection with -
 - (i) (aa) the purchase of, sale of, cost of, value of, and payment for the goods that are exported;

- (bb) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the goods exported;
 - (ii) the production of the goods in the form in which they are exported, including proof of the originating status of the materials used and goods produced, the use of materials and other documentation and information to prove the originating status of the goods exported;
 - (iii) documents relating to any goods imported from the Russian Federation, including proof of origin in respect of any goods exported in the same state as imported or any goods used in the production of goods exported;
 - (iv) the exportation of the goods to the Russian Federation;
 - (v) any other documents contemplated in rule 46A3.16(*ij*).
- (c)
 - (i) For the purposes of paragraph (*b*), the books, accounts and other documents must include specifically the following:
 - (aa) direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned;
 - (bb) documents proving the identity of materials used in production and which contain enough particulars to determine the tariff subheading thereof;
 - (cc) documents proving the value of materials used and added value;
 - (dd) costing records showing the calculation of the ex-works price;
 - (ee) serially numbered invoices of goods sold for export; and
 - (ff) copies of Form A and all export documents (including transport documents).
 - (ii) An invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Origin in consultation with the Group Manager: Valuation, where -
 - (aa) different terms apply, for example, CIF price;
 - (bb) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;

- (cc) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
- (dd) a discount has been granted subject to conditions, for example, payment to be made within six months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
- (ee) any other instances where the invoiced price is not an ex-works price.

- (c) For the purpose of compliance with the provisions of the enactments, the Controller must keep a copy of the certificate of origin Form A, and any supporting documentary evidence and any related export documents for at least three years after the date of entry of export of the goods concerned."

- (c) By the substitution in rule 46A4.04 for paragraph (a) of the following paragraph:

"(a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of –

- (i) an exporter, a completed Annexure DA 185.4A2 and exporter's application for registration (DA 46A1.02 incorporated in Section C thereof); and
- (ii) a producer, Annexure DA 185.4A7;"

- (k) By the insertion after Part 3 of the following:

"Part 4

Non-reciprocal tariff treatment under the Generalised System of Preferences (GSP) granted to developing countries by the Republic of Turkey

- 46A4.01 (a) The rules numbered 46A4 are rules contemplated in sections 46(4)(d) and 46A(4)(b) in respect of the enactments of the Republic of Turkey relating to the Generalised System of Preferences (GSP) wherein is prescribed the origin and other requirements in terms of which goods exported from a

developing country (which includes the Republic) will qualify for preferential tariff treatment on importation into the Republic of Turkey.

(b) The enactments of the Republic of Turkey to which these rules relate are the following English versions received from the Undersecretariat of Customs, Turkey:

(i) Consolidated Decision on Determination of Origin of Goods Benefiting from Preferential Regime for the purpose of the Generalised System of Preferences [No. 2001/3485] stated to have been published and amended in the Official Gazette of the Republic of Turkey as follows:

(A) published on 30th December 2001/24626

(B) amended on 9th October 2003/25254

(C) amended on 24th March 2004/25408

(ii) Annexes to the Consolidated Decision:

Annex I – Introductory Notes to the List in Annex II

Annex II – List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status

Annex III – Certificate of Origin Form A

Annex IV – Movement Certificate EUR 1 and Application for Movement Certificate EUR 1

Annex V – Invoice Declaration

Annex VI – Working Excluded from Generalized System of Preferences Regional Cumulation

Annex VII – The List of the least Developed Countries

Note:

(1) Care must be exercised in applying any provision of an enactment and the South African Revenue Service cannot warrant that the enactments are free from errors or up to date or otherwise complete, and having regard to the provisions of section 46A(7), it is the duty of exporters to ascertain particulars or confirmation of the precise qualifying requirements and the extent of any benefit from the importer or the customs authority in the Republic of Turkey.

- (2) These documents are included in the SARS website
(www.sars.gov.za).

(c) Any expression used in the rules with reference to an enactment of the Republic of Turkey shall, unless the context otherwise indicates, have the meaning assigned thereto in the said enactment or relevant provisions of the Act or as defined in these rules.

(d) (i) Where any rule reflects an alphabetical prefix or alphabetical prefixes and a number or numbers in brackets in any heading to the rule, such a reference refers to an enactment of the Republic of Turkey, for example:

"TDA 43	TDA followed by a number refers to the relevant article of the Turkey enactment "Consolidated Decision on Declaration of Origin of Goods Benefiting from Preferential Regime for the Purposes of the Generalised System of Preferences" referred to in paragraph (b)"
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(ii) These references are merely quoted to facilitate tracing relevant provisions in the enactments, but exporters are cautioned to study each enactment as a whole and in context to verify requirements in each case and not to rely solely on such references.

(e) In the application of provisions of the Act to any enactment -

(i) the following expressions in the definitions of an enactment shall have the meanings assigned thereto in this paragraph:

"chapters and headings" means the chapters and headings (four-digit codes) of Part 1 of Schedule No. 1;

"customs value" means the value of imported goods calculated or determined in accordance with the provisions of sections 65, 66, 67 and 74A; and

"Harmonized System" or "HS" or "Harmonized Commodity Description and Coding System" means, for the purposes of any meaning ascribed to any expression in any provision of origin in any enactment or these rules, the provisions of Part 1 of Schedule No. 1, except national subheadings or additional section or chapter notes and the rates of duty, applicable to the classification of any goods in any chapter or heading or subheading, and for the purposes of interpretation of Part 1 of Schedule No. 1, includes application of the Explanatory Notes to the Harmonized System as required in terms of section 47(8)(a);

- (ii) the following expressions in an enactment shall have the meanings assigned thereto in this paragraph -

"authority or authorities", "competent authorities", "customs authorities" or "governmental authorities" means, with effect from the date these rules come into operation, the Commissioner, or in accordance with any delegation in these rules, the Head Customs Operations in the Operational Service division of the South African Revenue Service, the Controller or any other officer;

"beneficiary country" (except when referring to benefits for a least developed country) or **"developing country"** includes the Republic;

"Certificate of Origin Form A" or "Form A" means the Generalised System of Preferences, Certificate of Origin (combined declaration and certificate) Form A included in Annex III to the Consolidated Decision, which is issued in a beneficiary country as proof of origin and of which numbered sets are printed and provided by the South African Revenue Service as stated in these rules;

"Decision" means the Consolidated Decision on Determination of Origin of Goods Benefiting from Preferential Regime for the Purposes of the Generalised System of Preferences (and its Annexes) referred to in paragraph (b), which states in Article 1 thereof –

"This Decision shall regulate procedures and principles on determining the origin of goods benefiting from the preferential regime at trade to the Republic of Turkey for the purposes of the Generalised System of Preferences, according to Article 22(b) of Customs Law No. 4458.";

"GSP" means the Generalised System of Preferences as in operation in the Republic of Turkey in terms of which non-reciprocal preferential tariff treatment is granted to goods originating in beneficiary countries which include the Republic;

"Movement Certificate EUR 1", the form of which a specimen is published in Annex IV to the Decision which is issued as proof of the originating status of goods exported from the Republic of Turkey to the Republic for the purposes of the GSP;

"origin", "originate", "originating status" and cognate expressions, relate to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in an enactment;

"preferential tariff treatment" shall have the meaning assigned thereto in section 46A (1);

(iii) For the purposes of TDA 6 -

"company" means a company contemplated in the Companies Act, No. 61 of 1973;

"registered or recorded in" or "sail under the flag of a beneficiary country" includes **"registered"** or **"of South African nationality"** as contemplated in the Merchant Shipping Act, No. 57 of 1951;

"seabed" means **"the bed of the sea and the subsoil thereof"** included in the definition of **"sea"** in section 1 of the Maritime Zone Act, No. 15 of 1994;

"territorial waters" means the territorial waters as defined in section 4 of the Maritime Zone Act, No. 15 of 1994.

(iv) the expression -

"enactment" means an enactment as defined in section 46A(1) and includes any legislative enactment specified in paragraph (b), any amendment thereof or any directive in connection therewith issued by the Republic of Turkey;

"exporter" means a registered exporter as contemplated in section 46A(6);

"goods" as used in these rules means depending on the context, **"goods"** or **"products"** or **"materials"** as defined in an enactment;

"GSP goods", means goods exported or in the case of a producer, goods produced for export from the Republic for the purposes of obtaining the benefits of preferential tariff treatment on importation into the Republic of Turkey;

"list rule" or **"rule"** means a requirement specified in respect of a product in the "List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status" as provided in Annex II and the Introductory Notes thereto in Annex I, of the Decision;

"manufacturer" means a registered manufacturer as contemplated in section 46A(6) and includes, depending on the context, a **"producer"**;

"producer" means a registered producer as contemplated in section 46A(6) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products and depending on the context, any person that manufactures, processes or assembles goods or any combination thereof;

"relevant enactment" means an enactment of the Republic of Turkey;

"Republic" means the Republic of South Africa.

"SACU" means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland;

46A4.02 (a) Subject to section 3(2), any power, duty or function contemplated in sections 46(4)(d) and 46A(4) is delegated to the extent specified in these rules to the Head Customs Operations in the Operational Service Support division of the South African Revenue Service, the Controller or any officer designated to exercise such power or perform such duty or function;

(b) For the purposes of paragraph (a) any officer authorised by the Manager: Commercial Services or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in any enactment or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfillment of the other requirements of such enactment.

46A4.03 Transitional arrangements

(a) The responsibility of the South African Revenue Service for the administration of the GSP in respect of the Republic of Turkey commences on the date these rules come into operation.

(b) Any matter arising from the administration of the GSP before that date, must be finalised with the existing offices in the Department of Trade and Industry responsible for the administration of the GSP before the date these rules came into operation.

46A4.04 Registration of exporter and producer

For the purposes of section 46A(6) and section 59A -

- (a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, Annexure DA 185.02 and DA 46A.01;
 - (ii) a producer, Annexure DA 185.14 and DA 46A.02;
- (b) if the exporter is also the producer of the goods concerned, application for registration as exporter as well as a producer, must be so submitted.

Rules relating to the enactments of the Republic of Turkey prescribing requirements concerning the origin and proof of origin in respect of goods exported from beneficiary countries.

46A4.05 Purpose, scope and definitions (TDA 1-8, 24)
No rule

46A4.06 Rules of origin, proofs of origin (TDA 3 and 24)

- (a) In terms of the relevant enactments the basic requirements for a product to be regarded as originating in a GSP beneficiary country are that it must be -
 - (i) wholly obtained in that country; (TDA 6)
 - (ii) obtained in that country in the manufacture of which products other than those referred to in subparagraph (i) are used provided that the said product has undergone sufficient working or processing (TDA 7, Annexes I and II).
- (b)
 - (i) Products originating in the Republic of Turkey which are exported to a GSP beneficiary country and which are subject to working or processing there going beyond the processes regarded as insufficient working or processing (TDA 8) are regarded as originating in that GSP beneficiary country (TDA 4).
 - (ii) The process referred to in subparagraph (i) is referred to as cumulation and in this regard the enactments provide for -
 - (aa) regional cumulation (TDA 13, 14, 15, 16 and 17) which only applies in respect of the groups listed in TDA 14;
 - (bb) bilateral cumulation with materials originating in the Republic of Turkey (TDA 4).

- (c) An originating product is eligible, on importation into the Republic of Turkey to benefit from the relevant tariff preference provided -
 - (i) it has been transported directly (TDA 22);
 - (ii) a valid certificate of origin Form A is submitted or an invoice declaration is produced (TDA 24 and 26); and
 - (iii) the customs administration (or other government authority) of a beneficiary country assists the customs authorities of the Republic of Turkey in verifying (when required) the authenticity of the document or the accuracy of the information regarding the origin of the product (TDA 39 and 40).

- (d) For the purposes of these requirements -
 - (i) exporters and producers (as defined) must ensure that proper records are kept to prove the originating status of goods exported (whether on completion of Form A or an invoice declaration) under the GSP scheme as specified in these rules;
 - (ii) exporters must produce a duly completed application form and submit the necessary supporting documents proving the originating status of the goods concerned when applying for certification of Form A.

- (e)
 - (i) Whenever originating status is claimed for any product in which materials originating in the Republic of Turkey have been incorporated, the exporter shall, in addition to any other documentation that may elsewhere be specified in these rules, keep available for inspection all appropriate records to prove compliance with the conditions for cumulation as contemplated in TDA 4 and paragraph (b).
 - (ii) Where goods are imported into the Republic from the Republic of Turkey for working or processing (cumulation purposes), the bill of entry import must be so endorsed and also with the movement certificate EUR 1 number and date or to the effect that the importer is in possession of an invoice declaration.

46A4.07 Products wholly obtained in the Republic of Turkey or a GSP beneficiary country (TDA 6)

Goods wholly obtained must be so described on Form A, or any invoice declaration and any entry for export, for example, "**coal (wholly obtained)**".

46A4.08 Products sufficiently worked or processed – List of working or processing (TDA 7, Annexes I and II)

- (a) A value tolerance, which does not apply to textile products of HS chapters 50 to 63 of the Harmonized System, is allowed in respect of non-originating materials which should not be used in the manufacture of originating products.
- (b) Derogations as provided in TDA 18, 19 and 20 are only applicable to least-developed beneficiary countries.

46A4.09 Insufficient working or processing (TDA 8)

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out to distinguish sufficient and insufficient working.

46A4.10 Unit of qualification (TDA 9)

No rule.

46A4.11 Accessories, spare parts and tools (TDA 10)

No rule.

46A4.12 Sets (TDA 11)

Any record kept to prove the originating status of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purposes of application of the relevant provisions of origin.

46A4.13 Neutral elements (TDA 12)

No rule.

46A4.14 The principle of territoriality, re-importation of goods (TDA 21)

- (a) For the purpose of application of the relevant enactments "**exported**" includes goods removed to any SACU country other than the Republic.

- (b) When entering any goods under rebate of duty for which originating status as contemplated in the Republic of Turkey enactment is claimed on re-importation from any country, it must be proved that the goods returned -
 - (i) are the same as those which were exported;
 - (ii) have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

46A4.15 Direct transport (TDA 22)

- (a) The provisions of this rule relating to the import of goods only apply in respect of the provisions of rule 46A4.06(b) (cumulation).
- (b)
 - (i) **"Transported directly"** means goods invoiced to an importer in the Republic by an exporter in the Republic of Turkey (or by a person in another country) and transported directly from the Republic of Turkey to that importer, arriving in the same ship, aircraft or container on which they were loaded on exportation.
 - (ii) The evidence specified in TDA 22 in respect of goods which have not been transported directly between the Republic of Turkey and the Republic shall be produced to the Controller at the time of entry together with the form EUR 1 or invoice declaration and other documents contemplated in section 39.
 - (iii) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on the furnishing of a provisional payment or other security pending production of the documents necessary to prove the originating status and compliance with the requirements specified TDA 22.
- (c) **"A single transport document"** may include a through bill of lading or air waybill indicating a contract for the carriage of goods from the Republic of Turkey to the Republic.
- (d) **"Any substantiating documents"** referred to in TDA 22 shall be documents, which provide the facts specified therein and may include a declaration by the exporter supported by a statement from the customs authorities of the country concerned that according to their investigations

the facts contained in the declaration are correct or to the extent that although all the facts have not been verifiable they have no reason to doubt their correctness.

- (e) (i) The provisions of paragraphs (b), (c) and (d) shall apply *mutatis mutandis* in respect of goods exported to the Republic of Turkey.
- (ii) The exporter in the Republic must produce the evidence required on importation into the Republic of Turkey to the Controller together with the Application for Certificate of Origin Form A, completed Form A and other prescribed export documents.

46A4.16 Exhibitions (TDA 23)

- (a) The provisions of this rule relating to the import of goods only apply in respect of the provisions of rule 46A4.06(b) (cumulation).
- (b) In addition to the proof of origin referred to in TDA 22 the importer must produce on entry of the goods imported -
 - (i) an invoice from the exporter in the country concerned endorsed with the statement "**these goods were consigned to you from (name and place of exhibition)**";
 - (ii) a statement from the exporter confirming the particulars specified in the enactments.

46A4.17 General conditions, proof of origin of goods, issue of Certificates of Origin Form A and Application for Certification of Origin Form A (TDA 24 and 25)

- (a) Numbered Certificate of Origin Form A have been printed in accordance with Annex III to the Decision and are available from the South African Revenue Service at the offices of Controllers specified in paragraphs (a) and (b) of item 200.03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to the Republic of Turkey.
- (b) (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
- (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.

- (iii) (aa) The Form A, export bill of entry, application form and supporting documents for each consignment must be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Commercial Services otherwise determines.
 - (bb) Every export bill of entry shall be endorsed -
 - (A) whether Form A or an invoice declaration is produced;
 - (B) with the Form A number, if applicable;
 - (cc) **"Supporting documents"** include those contemplated in paragraph (ij).
 - (dd) In addition to any copies required in terms of other export clearing procedures, the exporter or his or her agent must also submit for retention by the Controller -
 - (A) an additional copy of the bill of entry export;
 - (B) copies of the documents specified in subparagraph (aa); and
 - (C) a copy of the export invoice (endorsed with the invoice declaration, where applicable), a copy of the bill of lading, air waybill or the transport document, and producer's declaration, where applicable.
 - (ee) If an invoice declaration is produced after export a copy of the relevant export bill of entry must be submitted therewith to the Controller.
 - (ff) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.
 - (iv) The officer processing the documents must check the copy of Form A submitted for retention to verify whether it is a true copy of the original and if satisfied must certify it as such.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the Form A and the application form.

- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in the relevant enactment.
- (f) The letter of authority shall be submitted together with the completed Form A and application form and will be retained by the Controller.
- (g) (i) Completion of a Form A or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the relevant enactment.
- (ii) Form A must be accompanied by the Application for Certificate of Origin Form A (DA 46A.03) and if the exporter is not the producer a Declaration by Producer (Form DA 46A.04).
- (h) Form A must be completed to be authentic in accordance with the notes on the reverse thereof, the instructions in the relevant enactments and the following requirements:
- (i) (aa) The certificate must be completed in English.
- (bb) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout.
- (ii) The numbered boxes of the certificate must be completed as follows:

Box 1

- The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic.

Box 2

- Insert the consignee's name, address and country (Turkey).

Box 3

- Insert the details which will be inserted on the export bill of entry.

Box 4

- Insert the bill of entry export number and date, client number of the exporter referred to in rule 59A.06(1) and one of the following endorsements where necessary –
 - **"Duplicate"** (where application is made for a duplicate);
 - **"Issued retrospectively"** (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof);
 - **"Turkey Cumulation"** (where goods have acquired originating status by cumulation of origin involving products originating in the Republic of Turkey as contemplated in rule 46A4.06 and the relevant enactment).

Boxes 5 and 6

- Enter item numbers in Box 5 and identifying marks and numbers in Box 6.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- If they are not marked state **"No marks and numbers"**.
- No space must be left between items.

Box 7

- State identifying marks and numbers on the packages.
- For goods in bulk which are not packed insert **"In bulk"**.
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.
- The goods must be identified by giving a reasonably full commercial description supplemented where necessary by information which enable the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111).

- If both originating and non-originating goods are packed together describe only the originating goods and add at the end **"Part contents only"**.
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk on the invoice and the following statement put in Box 7, below the description of the goods:
 - **"Goods marked * on the invoice are non-originating and are not covered by this Form A";**
- Draw a horizontal line under the only or final item in Box 7 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 8 (see Notes on the reverse of Form A)

- Enter the letter –
 - **"P"** for goods wholly obtained;
 - **"W"** followed by the Harmonized System heading at the 4-digit level for goods sufficiently worked or processed in terms of the relevant provision of the Decision.

Box 9

- Insert metric measures or any other quantity required.

Box 10

- Insert the invoice number and date.

Box 11

- Certification -
 - The officer must print his or her initials and surname below his or her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him or her for this purpose.

Box 12

- The box must be duly completed and the initials and surname and capacity of the person signing the certificate must be stated below the signature.
- If the certificate is signed by a clearing agent on behalf of an exporter, the name of the clearing agent must be stated below the signature.

- The signature must not be mechanically reproduced or made with a rubber stamp.
- No certificate shall be valid –
 - If any entered particulars are incorrect and not in accordance with these rules;
 - If it contains any erasures or words written over one another;
 - If altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are signed in full by the person who completed the certificate and endorsed by the officer who signs the certificate.

Application form for certification of Form A

(ij) For the purposes of verification of the originating status of goods declared in the Application for Certificate of Origin Form A (form DA 46A.03) the exporter, whether –

- (i) the manufacturer in whose undertaking the last working or processing has been carried out;
- (ii) an exporter who has bought in the goods from a manufacturer for exportation in the same state; or
- (iii) an exporter who re-exports in the same state goods imported from the Republic of Turkey or re-exports goods re-imported as contemplated in rule 46A4.14;

must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including (as may be applicable) -

- (aa) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or producer to obtain the goods concerned, movement certificates and invoice declarations authorised in terms of the relevant enactment, proving the originating status of goods imported and re-exported or materials used and producer's declaration (form DA 46A.04);

- (bb) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
 - (cc) documents proving the value of materials used and added value;
 - (dd) costing records showing the calculation of the ex-works price defined in the enactments.
- (k) The requirements for signing the declaration on Form A are also applicable in respect of the application form which -
 - (i) must bear the original signature of the person signing the declaration;
 - (ii) must be signed by the same person who signed the declaration on the Form A.
- (l)
 - (i) The exporter must ensure that the application is duly completed and must submit the supporting documents specified in paragraph (3) of the declaration; and
 - (ii) the supporting documents must include any relevant documents referred to in paragraph (ij).
- (m) Where the officer has reasonable doubts about the correctness of the statements made on the application for a Form A, such officer may -
 - (i) request the exporter or manufacturer to produce documentary proof of origin;
 - (ii) detain and examine the goods entered for export;
 - (iii) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the Application for Certificate of Origin Form A; and
 - (iv) refuse to issue the Form A until he is satisfied that the originating requirements of the enactments have been complied with.

46A4.18 Certificate of Origin Form A issued retrospectively (TDA 28)

- (a)
 - (i) The exporter may only apply for the issue of a Certificate of Origin Form A after exportation at the office of the Controller where the goods were originally entered for export.

- (ii) Form A may only be issued after exportation of the products to which it relates, if -
 - (aa) it was not issued at the time of exportation because of errors or accidental omissions or special circumstances; or
 - (bb) it is demonstrated that a Form A was issued but not accepted on importation of the goods in the country of destination for technical reasons.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by -
 - (i) a completed Form A and its application form of which -
 - (aa) Box 4 shall be endorsed "**issued retrospectively**"; and
 - (bb) if a Form A has not been issued previously for the goods concerned, the declaration by the exporter on form DA 46A.03 shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of the relevant enactment;
 - (iv) full reasons of the circumstances in which a retrospectively issued Form A is required.
- (c) Before such application is considered an officer will first conduct an examination for verification that the particulars contained in the exporter's application conform to those contained in the corresponding export documents.
- (d) The application for the issue of a Form A retrospectively shall be considered by the Controller.

46A4.19 Issue of a duplicate Certificate of Origin Form A (TDA 29)

- (a) The exporter shall furnish to the Controller where the original Form A was issued -
 - (i) a written statement giving reasons why a duplicate is required and the number and date of the original Form A;

- (ii) a completed Form A and application form reflecting the word DUPLICATE and the number and date of the original form in Box 4;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued.
- (b) The officer processing the application for a duplicate shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original Form A was issued.
- (c) In respect of the period of validity of a proof of origin, to which rule 46A4.22 relates, TDA 29 provides that the duplicate takes effect from the date of the original.

46A4.20 Issue of replacement Certificate of Origin Form A (TDA 30)

TDA 30 provides for the issuing of a replacement Certificate of Origin Form A by the Republic of Turkey where goods originating in a GSP beneficiary country are sent from the Republic of Turkey and placed under customs control in the Republic of Turkey and thereafter sent elsewhere within the Republic of Turkey or to the Community, Norway or Switzerland.

46A4.21 Content and format of invoice declaration (TDA 24 and 26 and Annex V)

- (a)
- (i) The provisions of this rule relating to the importation of goods only apply in respect of the goods imported for cumulation purposes as contemplated in rule 46A4.06.
 - (ii) Where form EUR 1 is not produced, the declaration specified in paragraph (c)(viii), must also be reflected on invoices of goods imported from the Republic of Turkey for the purposes of further working or processing in the Republic (cumulation).
- (b)
- (i) The provisions relating to invoice declarations are only applicable to goods exported to the Republic of Turkey in respect of a consignment consisting of one or more packages containing

originating products of which the total value does not exceed EUR 6 000.

- (ii) Where there are reasonable doubts as to the correctness of the declaration, the exporter will be required to apply for issuance of Form A.

(c) Every exporter must -

- (i) ensure that the goods comply with the relevant provisions of origin at the time of export;
- (ii) be in possession of the records and documents proving the originating status of the goods exported;
- (iii) use serially numbered invoices;
- (iv) insert a reference number or other particulars on any invoice, delivery note or another commercial document according to which the goods can be readily identified in such records and documents;
- (v) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
- (vi) insert on any such document the applicable tariff heading;
- (vii) indicate clearly on such documents by means of an asterisk and statement goods which are not of preferential origin; and
- (viii) insert on three copies of the invoice or such other document, for each consignment, the English version of the declaration specified below, which shall -

(aa) be dated and bear the original signature of the exporter in manuscript; and

(bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature.

"The exporter of the products covered by this document declares that, except where otherwise clearly indicated, these products are of preferential origin according to the rules of origin of the Generalised System of Preferences of the Republic of Turkey

.....

(Place and date)

.....
(Signature of the exporter)"

(Note: In addition the name of the person signing the declaration has to be indicated in clear script)

- (ix) The documents referred to in subparagraph (viii) shall be dealt with by -
 - (aa) forwarding one copy of the document on which the declaration is made to the consignee;
 - (bb) including with the other export documentation one such copy and a copy of the invoice for retention by the Controller; and
 - (cc) creating a file for storing a copy of the invoice, such delivery note or other commercial document and supporting evidence to prove the origin of the goods.
- (d) Any exporter who issues any invoice declaration may be prohibited from issuing such declarations where such exporter -
 - (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of the relevant enactment or these rules;
 - (iii) fails to notify the Manager: Commercial Services that the goods no longer fulfil the required origin conditions (for example, by change of sources or materials).
- (e) If an exporter has been so prohibited from using invoice declarations, such exporter shall apply for Form A in respect of all exports for which originating status is claimed.
- (f)
 - (i) If any invoice declaration is required to be made after exportation, the documents reflecting the invoice declaration together with the copies of the other documents produced at the time of export and the documents proving originating status shall be produced and application shall be made to the officer at the office of the Controller where the goods were entered for export.
 - (ii) The provisions of rule 46A4.18 shall apply *mutatis mutandis* to such application.

46A4.22 Submission: Validity of proof of origin (TDA 31)

- (a) These provisions are only applicable in respect of goods imported for cumulation purposes as contemplated in rule 46A4.06.
- (b) Any proof of origin in respect of imported goods must be -
 - (i) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
 - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
 - (iii) in English and if not so, a translation must be attached thereto.
- (c)
 - (i) Exporters must submit the Form A or the invoice declaration as proof of origin to reach the importer timeously in the country of destination as such proof of origin must be produced to the customs authorities in the country concerned within 10 months from the date of issue in the Republic.
 - (ii) After such period proof of origin may only be accepted on application to the Turkey customs authorities -
 - (aa) if failure to observe the time limit is due to exceptional circumstances, or
 - (bb) where the goods have been submitted to the customs authorities in the country of destination before the final date of expiry.

46A4.23 Importation by installments (TDA 34)

When such goods are exported to the Republic of Turkey, one Form A shall be issued and submitted to the importer in the country of destination on exportation of the first installment.

46A4.24 Exemptions from requirement of proof of origin (TDA 36 and 37)

- (a) Proof of origin is not required if goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage.

- (b) According to the provisions the following general conditions apply to exemption from production of proof of origin in respect of the importations concerned, where -
- (i) the value of such goods does not exceed the limit of EURO 500 in the case of small packages or EURO 1 200 in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage for the personal use of the recipients or travellers or their families;
 - (iii) the goods have been declared as meeting the requirements of the relevant enactment and there is no reason to doubt the veracity of such declaration.

46A2.25 Discrepancies and formal errors (TDA 35)

- (a) Slight discrepancies in proof of origin documents submitted at the time of entry of imported goods may include -
- (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) that the information is valid and accurate but not in the correct box;
 - (iv) that the exporter's declaration box is not dated.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors may be accepted provided the documents and goods comply with the conditions contemplated in the relevant enactment.

46A4.26 Communication of stamps and addresses (TDA 39)

- (a) The Commissioner will supply the Undersecretariat of Customs of the Republic of Turkey with imprints of customs stamps and other information relating to the issuance of certificates.
- (b) The stamp provided for issuing of Form A must be used only for that purpose and only that stamp shall be used for such forms.

46A4.27 Mutual assistance (TDA 25 and 39)

The Manager: Commercial Services shall be responsible for rendering any assistance contemplated in the relevant enactments to the customs administration of the Republic of Turkey.

46A4.28 Verification of proof of origin (TDA 40 and 41)

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the exporting country.
- (b) If a request for verification of proof of origin is received from the customs authorities in the Republic of Turkey, the exporter, manufacturer, producer or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfillment of the other requirements of any enactment.
- (c) The Manager: Commercial Services shall determine whether or not to refuse entitlement to preferences in respect of imports from the Republic of Turkey for cumulation purposes as contemplated in rule 46A4.06 in the circumstances contemplated in the enactments.

46A4.29 Keeping of books, accounts and other documents (TDA 42)

- (a) Any books, accounts and other documents kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for the proving of the originating status of the goods and for fulfilling of the other requirements of the related enactment;
- (b) Every exporter or producer or any other person as contemplated in section 46A(3)(b) shall maintain and keep for a period of three years from the date goods were exported complete books, accounts or other documents relating to the origin of goods for which preferential tariff treatment was claimed including any such books, accounts or other documents in connection with -
 - (i) (aa) the purchase of, sale of, cost of, value of, and payment for the goods that are exported;

- (bb) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the goods exported;
 - (ii) the production of the goods in the form in which they are exported, including proof of the originating status of the materials used and goods produced, the use of materials and other documentation and information to prove the originating status of the goods exported;
 - (iii) documents relating to any goods imported from the Republic of Turkey, including proof of origin in respect of any goods exported in the same state as imported or any goods used in the production of goods exported;
 - (iv) the exportation of the goods to the countries concerned;
 - (v) any other documents contemplated in rule 46A4.17(ij).
- (c)
 - (i) For the purpose of paragraph (b) the books, accounts and other documents must include specifically the following:
 - (aa) direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned;
 - (bb) documents proving the identity of materials used in production and which contain enough particulars to determine the tariff subheading thereof;
 - (cc) documents proving the value of materials used and added value;
 - (dd) costing records showing the calculation of the ex-works price;
 - (ee) serially numbered invoices of goods sold for export; and
 - (ff) copies of Form A and all export documents (including transport documents).
 - (ii) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Commercial Services in consultation with the Group Manager: Valuation, where -
 - (aa) different terms apply, for example, CIF price;
 - (bb) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;

- (cc) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
- (dd) a discount has been granted subject to conditions, for example, payment to be made within six months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
- (ee) any other instances where the invoiced price is not an ex-works price.

- (b) For the purpose of compliance with the provisions of the enactments, the Controller must keep a copy of the certificate of origin Form A, any supporting documentary evidence and any related export documents for at least three years after the date of entry of export of the goods concerned.

“Part 5

Non-reciprocal preferential tariff treatment under the Generalised System of Preferences (GSP) granted to developing countries by Norway

- 46A5.01 (a) The rules numbered 46A5 are–
- (i) rules contemplated in sections 46(4)(d) and 46A(4)(b) in respect of the enactments of Norway relating to the Generalised System of Preferences (GSP) wherein is prescribed the origin and other requirements in terms of which goods exported from a developing country (which includes the Republic) will qualify for preferential tariff treatment on importation into Norway;
 - (ii) except for necessary technical changes and the exclusion of references to the Community and Switzerland, restatements of the contents of the rules numbered 46A2;
 - (iii) substituted for the rules numbered 46A2 as a result of–
 - (aa) changes to the GSP rules of the Community; and
 - (bb) the GSP is no longer being applied between Switzerland and the Republic.
- (b) The enactments of Norway to which these rules relate are the following:

Enactments of Norway

Publication entitled: “Generalised System of Preferences for import of goods from Developing Countries GSP” consisting of:

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(Contents of publication obtained from Norwegian Customs website www.tol.no – updated to 9 August 2002)

(c) Any expression used in the rules with reference to any enactment of Norway shall, unless the context otherwise indicates, have the meaning assigned thereto in the said enactment, or relevant provisions of the Act or as defined in these rules

(d) (i) Where any rule reflects an alphabetical prefix or alphabetical prefixes and a number or numbers in brackets in any heading to the rule, such a reference refers to enactments and their numbers of Norway, for example–

Ns 1 or NGI.4.3.2/s2

These references may include–

- Part 1 – General Information (quoted in these rules as GI followed by the item number); or

- Part II – Rules of origin and proof of origin, which contain the Regulations concerning the origin of goods etc., under the Generalised System of Preferences (GSP) for the import of goods from developing countries (the sections of which are quoted in the rules as “s” followed by the section number; a reference may therefore consist of both, for example, NGI 4.3.2/s2);

(Part 1 is included because of its explanatory content with regard to the Regulations).

(ii) These references are merely quoted to facilitate tracing relevant provisions in the enactments, but exporters are cautioned to study each enactment as a whole and in context to verify requirements in each case and not to rely solely on such references

(e) In the application of provisions of the Act to any enactment–

(i) the following expressions in the definitions of an enactment shall have the meanings assigned thereto in this paragraph–

”chapters and headings” means the chapters and headings (four-digit codes) of Part 1 of Schedule No. 1;

“customs value” means the value of imported goods calculated or determined in accordance with the provisions of sections 65, 66, 67 and 74A; and

”Harmonized System” or “HS” or “Harmonized Commodity Description and Coding System” means, for the purposes of any meaning ascribed to any expression in any provision of origin in any enactment or these rules, the provisions of Part 1 of Schedule No. 1, except national subheadings or additional section or chapter notes and the rates of duty, applicable to the classification of any goods in any chapter or heading or subheading, and for the purposes of interpretation of Part 1 of Schedule No. 1, includes application of the Explanatory Notes to the Harmonized System as required in terms of section 47(8)(a);

(ii) the following expressions in an enactment shall have the meanings assigned thereto in this paragraph—

(aa) “authority or authorities”, “competent authorities”, “customs authorities” or “governmental authorities” means, the Commissioner, or in accordance with any delegation in these rules, the Senior Manager: Trade Administration in the Customs Division of the South African Revenue Service, the Controller or any other officer;

“GSP” means the Generalised System of Preferences as in operation in Norway in terms of which non-reciprocal preferential tariff treatment is granted to goods originating in beneficiary countries which include the Republic;

“GSP goods” means goods exported or in the case of a producer, goods produced for export from the Republic for the purposes of obtaining the benefits of preferential tariff treatment on importation into Norway;

”Movement Certificate EUR 1” in respect of GSP goods, the form of which a specimen is published in the enactments of Norway which is issued by Norway as proof of the originating status of goods exported to the Republic for the purposes of the GSP;

“Norway” means the Kingdom of Norway;

“origin”, “originate”, “originating status” and cognate expressions, relate to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in an enactment;

“preferential tariff treatment” shall have the meaning assigned thereto in section 46A(1);

(bb) For the purposes of Ns 3 –

“company” means a company contemplated in the Companies Act, No. 71 of 2008;

”registered or recorded in” or “sail under the flag of a GSP beneficiary country” or “beneficiary country” includes “registered” or “of South African nationality” as contemplated in the Merchant Shipping Act, No. 57 of 1951;

”seabed” and “marine soil” or “subsoil” means “ the bed of the sea and the subsoil thereof” included in the definition of “sea” in section 1 of the Maritime Zone Act, No. 15 of 1994;

”territorial waters” means the territorial waters as defined in section 4 of the Maritime Zone Act, No. 15 of 1994.

(iii) the expression –

“enactment” means an enactment as defined in section 46A(1) and includes any legislative enactment specified in paragraph (b), any amendment thereof or any directive in connection therewith issued by Norway;

”exporter” means a registered exporter as contemplated in section 46A(6);

“goods” as used in these rules means, depending on the context, “goods” or “products” or “materials” as defined in an enactment;

”list rule” means the “List of working or processing required to be carried out on non-originating materials” in order that the product manufactured can obtain originating status as contained in the enactments;

”manufacturer” means a registered manufacturer as contemplated in section 46A(6) and includes, depending on the context, a “producer”;

”producer” means a registered producer as contemplated in section 46A(6) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products and depending on the context, any person that manufactures, processes or assembles goods or any combination thereof;

”relevant enactment” means an enactment of Norway;

”SACU” means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Kingdom of Swaziland and the Republic of South Africa;

“Republic” means the Republic of South Africa.

46A5.02 (a) Subject to section 3(2), any power, duty or function contemplated in sections 46(4)(d) and 46A(4) is delegated to the extent specified in these rules to the Senior Manager: Trade Administration in the Customs Division of the South African Revenue Service, the Controller or the Officer: Origin Administration or any officer designated to exercise such power or perform such duty or function;

(b) For the purposes of paragraph (a) any Officer: Origin Administration or any other officer authorised by the Senior Manager: Trade Administration or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in any enactment or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of such enactment.

46A5.03 From the date these rules come into operation any reference in any other rule or form to rule 46A.02 as relating to the Generalised System of Preferences granted by Norway must be regarded as referring to the rules numbered 46A5.

46A5.04 Registration of exporter and producer

For the purposes of section 46A(6) and section 59A–

(a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of –

- (i) an exporter, Annexure DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;
- (ii) a producer, Annexure DA 185.4A7 and form DA 46A.02 incorporated in Section A thereof;

(b) if the exporter is also the producer of the goods concerned, application for registration as exporter as well as a producer, must be so submitted.

46A5.05 Exporters must ascertain precise qualifying requirements and extent of benefit from importer or customs authority in Norway

- (a)
- (i) The enactments of Norway referred to in these rules have been obtained from the Internet.
 - (ii) These enactments are included on the South African Revenue Service (SARS) website and copies are available at the offices of the Controllers where certificates are issued.

- (b) The enactments in some instances contain variations in the requirements of a procedure in different sections (for example, cumulation in General Information) and refer to publications that are not included (for example, item 4.3.3 of General Information).
- (c) Care must therefore be exercised in applying any provision and the South African Revenue Service cannot warrant that the enactments are free from errors or up to date or otherwise complete and having regard to the provisions of section 46A(7), it is the duty of exporters to ascertain particulars or confirmation of the precise qualifying requirements and the extent of any benefit from the importer or the customs authority in the countries concerned.

Rules relating to enactments of Norway prescribing requirements concerning the origin and proof of origin in respect of goods exported from beneficiary countries.

Chapter I - General Provisions

46A5.06 Definitions (Ns 1)

No rule.

Chapter II – Originating Products

46A5.07 Origin criteria (NGI 4.3.2 and 4.3.3, s2 and s2.3)

- (a) In terms of the relevant enactments the basic requirements for a product to be regarded as originating in a GSP beneficiary country are that it must be –
 - (i) wholly obtained in that country; (Ns 3)
 - (ii) obtained in that country in the manufacture of which products other than those referred to in subparagraph (i) are used provided that the said product has undergone sufficient working or processing (Ns 4, Part II (list of working and processing, introductory notes to the list and list of processing rules)).
- (b)
 - (i) Products originating in Norway which are exported to a GSP beneficiary country and which are subject to working or processing there going beyond the processes regarded as insufficient working or processing (Ns 5;) are regarded as originating in that GSP beneficiary country (NGI 4.3).
 - (ii) The process referred to in subparagraph (i) is referred to as cumulation and in this regard the enactments provide that –
 - (aa) regional cumulation (NGI 4.3.1 and s6) only applies in respect of the ASEAN group (NGI 4.3.1);
 - (bb) cumulation is not applicable to goods of HS Chapters 1 to 24 (NGI 4.3.3);
 - (iii) General Information item (Norway) 4.3.2 relates to bilateral cumulation and item 4.3.3 to diagonal cumulation.
- (c) Certain tolerances, which do not apply to textile products of HS Chapters 50 to 63 of the Harmonized System, are allowed (NGI 4.1.3, s4).
- (d) On importation into Norway an originating product is eligible to benefit from the relevant tariff preference, provided–
 - (i) it has been transported directly (Ns 14);
 - (ii) a valid Certificate of Origin Form A is submitted or an invoice declaration is produced; and

- (iii) the customs administration (or other government authority) of a beneficiary country assists the customs authorities of Norway to verify (when required) the authenticity of the document or the accuracy of the information regarding the origin of the product.
- (e) For the purposes of these requirements –
 - (i) exporters and producers (as defined) must ensure that proper records are kept to prove the originating status of goods exported (whether on completion of Certificate of Origin Form A or an invoice declaration) under the GSP scheme as specified in these rules;
 - (ii) exporters must produce a duly completed application form and submit the necessary supporting documents proving the originating status of the goods concerned when applying for certification of Form A.
- (f) Whenever originating status is claimed for any product in which materials originating in Norway have been incorporated, the exporter shall, in addition to any other documentation that may elsewhere be specified in these rules, keep available for inspection all appropriate records to prove compliance with the conditions for cumulation.
- (g)
 - (i) Where goods are exported from Norway to the Republic for working or processing, the form EUR 1 must reflect the endorsement “GSP BENEFICIARY COUNTRY NORWAY” in Block 2 of the form.
 - (ii) Where goods are imported into the Republic for cumulation purposes, the bill of entry import must be endorsed with the movement certificate EUR 1 number and date or to the effect that the importer is in possession of an invoice declaration.

46A5.08 Products wholly obtained in a GSP beneficiary country (Ns 3)

Goods wholly obtained must be so described on Certificate of Origin Form A or any invoice declaration and any entry for export, for example, “coal (wholly obtained)”.

46A5.09 Products sufficiently worked or processed – processing list (NGI 4.1.2, 4.1.3, s4 and Part II (see rule 46A2.01))

Derogations as provided in Ns 11 are only applicable to least-developed beneficiary countries

46A5.10 Insufficient working or processing (NGI 4.2, s5)

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out to distinguish sufficient and insufficient working.

46A5.11 Unit of qualification (NGI 4 and s7)

No rule.

46A5.12 Accessories, spare parts and tools (NGI 4 and s8)

No rule.

46A5.13 Sets (NGI 4 and s9)

Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purposes of application of the relevant provisions of origin.

46A5.14 Neutral elements (NGI 4 and s10)

No rule.

Chapter III - Territorial requirements, transport, etc.

46A5.15 The principle of territoriality / re-importation of goods (NGI 5; s12 and s13)

(a) For the purpose of application of the relevant enactments “exported” includes goods removed to any SACU country other than the Republic.

- (b) When entering any goods under rebate of duty for which originating status as contemplated in any relevant enactment is claimed on re-importation from any country including a SACU country, it must be proved for the purposes of entry under item 409.00 of Schedule No. 4 that the goods returned –
 - (i) are the same as those which were exported;
 - (ii) have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

46A5.16 Direct transport (NGI 5 and s14)

- (a) The provisions of this rule relating to the import of goods only apply in respect of the provisions of rule 46A5.07(b) (cumulation).
- (b)
 - (i) “Transported directly” means goods invoiced to an importer in the Republic by an exporter in Norway (or by a person in another country) and transported directly from that countries to that importer, arriving in the same ship, aircraft or container on which they were loaded on exportation.
 - (ii) The evidence specified in the relevant enactments in respect of goods which have not been transported directly between the countries concerned and the Republic shall be produced to the Controller at the time of entry together with the form EUR 1 or invoice declaration and other documents contemplated in section 39.
- (c) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on the furnishing of a provisional payment or other security pending production of the documents necessary to prove the originating status and complying with the requirements specified in the relevant enactment.
- (d) A “single transport document” may include a through bill of lading or air waybill indicating a contract for the carriage of goods from the country concerned to the Republic.

(e) “Any substantiating documents” referred to in the enactments shall be documents, which provide the facts specified therein and may include a declaration by the exporter supported by a statement from the customs authorities of the country concerned that according to their investigations the facts contained in the declaration are correct or to the extent that although all the facts have not been verifiable they have no reason to doubt their correctness.

- (f) (i) The provisions of paragraphs (c), (d) and (e) shall apply *mutatis mutandis* in respect of goods exported to Norway.
- (ii) The exporter in the Republic must produce the evidence required on importation into Norway to the Controller together with the application for issue of Form A, completed Form A and other prescribed export documents.

46A5.17 Exhibitions (NGI 5 and s15)

- (a) The provisions of this rule relating to the import of goods only apply in respect of the provisions of rule 46A5.07(b).
- (b) In addition to the proof of origin referred to in the enactments the importer must produce on entry of the goods imported –
- (i) an invoice from the exporter in the country concerned endorsed with the statement “these goods were consigned to you from (name and place of exhibition)”
- (ii) a statement from the exporter confirming the particulars specified in the enactments.

Chapter IV – Proof of Origin

46A5.18 General conditions and issue of Certificate of Origin Form A (NGI 6.1.1, s16 and s17)

- (a) Numbered Certificate of Origin Form A forms have been printed in accordance with the provisions of the enactments and are available from the South African Revenue Service at the offices of Controllers specified in paragraphs (a) and (b) of item 200.03 of the Schedule to the Rules on

application by any exporter who wishes to export originating products to Norway.

- (b) (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
- (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.
- (iii) (aa) The Certificate of Origin Form A, export bill of entry, application form and supporting documents for each consignment must be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Senior Manager: Trade Administration otherwise determines.
- (bb) Every export bill of entry shall be endorsed –
 - (A) whether Certificate of Origin Form A or an invoice declaration is produced;
 - (B) with the Certificate of Origin Form A number, if applicable.
- (cc) “Supporting documents” include those contemplated in paragraph (ij).
- (dd) In addition to any copies required in terms of other export clearing procedures, the exporter or his or her agent must also submit for retention by the Controller–
 - (A) an additional copy of the bill of entry export;
 - (B) copies of the documents specified in item (aa); and
 - (C) a copy of the export invoice (endorsed with the invoice declaration, where applicable), a copy of the bill of lading, air waybill or the transport document, and producer’s declaration, where applicable.
- (ee) If an invoice declaration is produced after export a copy of the relevant export bill of entry must be submitted therewith to the Officer: Origin Administration.
- (ff) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter’s records.

- (iv) The officer processing the documents must check the copy of Certificate of Origin Form A submitted for retention to verify whether it is a true copy of the original and if satisfied must certify it as such.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the Certificate of Origin Form A and the application form.
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he or she holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in the relevant enactment.
- (f) The letter of authority shall be submitted together with the completed Certificate of Origin Form A and application form and will be retained by the Controller.
- (g)
 - (i) Completion of a Certificate of Origin Form A or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the relevant enactment.
 - (ii) Certificate of Origin Form A must be accompanied by the Application for Certificate of Origin Form A (DA 46A.03) and if the exporter is not the producer a Declaration by Producer (Form DA 46A.04).
 - (h) Certificate of Origin Form A must be completed to be authentic in accordance with the instructions in the relevant enactments, the notes on the reverse thereof and the following requirements:
 - (i)
 - (aa) The certificate must be made out in English;
 - (bb) if the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
 - (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

- The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic.

Box 2

- Insert the consignee's name, address and country.

Box 3

- Insert the details which will be inserted on the export bill of entry.

Box 4

- Insert the bill of entry export number and date, client number of the exporter referred to in rule 59A.06(1) and one of the following endorsements where necessary –
- “Duplicate” (where application is made for a duplicate);
- “Issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof);
- “Norway Cumulation”, where goods have acquired originating status by cumulation of origin involving products originating in the Norway as contemplated in rule 46A5.07 and the relevant enactment.

Boxes 5 and 6

- Enter item numbers in Box 5 and identifying marks and numbers in Box 6
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate
- If they are not marked state “No marks and numbers”
- No space must be left between items

Box 7

- State identifying marks and numbers on the packages.
- For goods in bulk which are not packed insert “In bulk”
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.

- The goods must be identified by giving a reasonably full commercial description supplemented where necessary by information which enable the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111).
- If both originating and non-originating goods are packed together describe only the originating goods and add at the end “Part contents only”.
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk (*) on the invoice and the following statement put in Box 7, below the description of the goods:
- Goods marked with an asterisk (*) on the invoice are non-originating and are not covered by this Certificate of Origin Form A.
- Draw a horizontal line under the only or final item in Box 7 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 8 (see Notes on the reverse of Certificate of Origin Form A)

- Enter the letter “**P**” for goods wholly obtained; or
- Enter the letter “**W**” followed by the Harmonized System heading at the 4-digit level for goods sufficiently worked or processed in terms of the relevant enactments.

Box 9

- Insert metric measures or any other quantity required.

Box 10

- Insert the invoice number and date.

Box 11

Certification

- The officer must print his or her initials and surname below his or her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him or her for this purpose.

Box 12

- The box must be duly completed and the initials and surname and capacity of the person signing the certificate must be stated below the signature.

- If the certificate is signed by a clearing agent on behalf of an exporter, the name of the clearing agent must be stated below the signature.
- The signature must not be mechanically reproduced or made with a rubber stamp.
- No certificate shall be valid–
 - If any entered particulars are incorrect and not in accordance with these rules;
 - If it contains any erasures or words written over one another;
 - If altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are signed in full by the person who completed the certificate and endorsed by the officer who signs the certificate.

Application form for certification of Form A

(ij) For the purposes of verification of the originating status of goods declared in the Application for Certificate of Origin Form A (DA 46A.03) the exporter, whether –

- (i) the manufacturer in whose undertaking the last working or processing was carried out; or
- (ii) an exporter who has bought in the goods from a manufacturer for exportation in the same state; or
- (iii) an exporter who re-exports in the same state goods imported from Norway or re-exports goods re-imported as contemplated in rule 46A5.15;

must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including (as may be applicable)–

(aa) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or producer to obtain the goods concerned, movement certificates and invoice declarations authorised in terms of the relevant enactment, proving the originating status of goods imported

- and re-exported or materials used and producer's declaration form DA 46A.04;
- (bb) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
 - (cc) documents proving the value of materials used and added value;
 - (dd) costing records showing the calculation of the ex-works price defined in the enactments.
- (k) The requirements for signing the declaration on Certificate of Origin Form A are also applicable in respect of the application form which –
- (i) must bear the original signature of the person signing the declaration;
 - (ii) must be signed by the same person who signed the declaration on the Certificate of Origin Form A.
 - (iii) (aa) The exporter must ensure that the application is duly completed and must submit the supporting documents specified in paragraph (3) of the declaration; and
 - (bb) the supporting documents must include any relevant documents referred to in paragraph (ij).
- (l) Where the Officer: Origin Administration has reasonable doubts about the correctness of the statements made on the application for a Certificate of Origin Form A, such officer may –
- (i) request the exporter or manufacturer to produce documentary proof of origin;
 - (ii) detain and examine the goods entered for export;
 - (iii) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the application for a Certificate of Origin Form A; and
 - (iv) refuse to issue the Certificate of Origin Form A until he is satisfied that the originating requirements of the enactments have been complied with.

46A5.19 Certificate of Origin Form A issued retrospectively (Ns 19)

- (a) (i) The exporter may only apply for the issue of a Certificate of Origin Form A after exportation at the office of the Controller where the goods were originally entered for export.
- (ii) Certificate of Origin Form A may only be issued after exportation of the products to which it relates, if –
 - (aa) it was not issued at the time of exportation because of errors or accidental omissions or special circumstances; or
 - (bb) it is demonstrated that a Form A was issued but not accepted on importation of the goods in the country of destination for technical reasons.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by –
 - (i) a completed Certificate of Origin Form A and its application form of which –
 - (aa) Box 4 shall be endorsed “issued retrospectively”; and
 - (bb) if a Certificate of Origin Form A has not been issued previously for the goods concerned, the declaration by the exporter on form DA 46A.03 shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of the relevant enactment;
 - (iv) full reasons of the circumstances in which a retrospectively issued Certificate of Origin Form A is required.
- (c) Before such application is considered an officer will first conduct an examination for verification that the particulars contained in the exporter’s application conform to those contained in the corresponding export documents.

- (d) The application for the issue of a Certificate of Origin Form A retrospectively shall be considered by the Controller.

46A5.20 Issue of a duplicate Certificate of Origin Form A (Ns 20)

- (a) The exporter shall furnish to the Officer: Origin Administration at the office of the Controller where the original Certificate of Origin Form A was issued –
- (i) a written statement giving reasons why a duplicate is required and the number and date of the original Certificate of Origin Form A;
 - (ii) a completed Certificate of Origin Form A and application form reflecting the word DUPLICATE and the number and date of the original form in Box 4;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued.
- (b) The Officer: Origin Administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original Certificate of Origin Form A was issued.

46A5.21 Issue of replacement Certificate of Origin Form A (Ns 21)

The enactments listed above provide for the issuing of replacement Certificates of Origin Form A by Norway where goods originate in a GSP beneficiary country are re-exported from any of, to another of, those countries

46A5.22 Content and format of invoice declaration (Ns 22 and Ns 23 and Appendix II to Part II)

- (a) The provisions for approved exporters are applicable to exports of goods from Norway to a beneficiary country for working or processing to acquire originating status in such country.

- (b) The provisions relating to invoice declarations are only applicable to goods exported to Norway in respect of a consignment consisting of one or more packages containing originating products of which the total value does not exceed NOK 25 000 in the case of Norway.
- (c) Every exporter must –
- (i) make out one invoice declaration for each consignment;
 - (ii) ensure that the goods comply with the relevant provisions of origin at the time of export;
 - (iii) be in possession of the records and documents proving the originating status of the goods exported;
 - (iv) use serially numbered invoices;
 - (v) insert a reference number or other particulars on any invoice, delivery note or another commercial document according to which the goods can be readily identified in such records and documents;
 - (vi) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
 - (vii) insert on any such document the applicable tariff heading;
 - (viii) indicate clearly on such documents by means of an asterisk (*) and statement goods which are not of preferential origin;
 - (ix) insert on three (3) copies of the invoice or such other document the English version of the declaration specified below, which shall –
 - (aa) be dated and bear the original signature of the exporter in manuscript; and
 - (bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature.

“The exporter of the products covered by this document declares that, except where otherwise clearly indicated, these products are of preferential origin according to the rules of origin of the Norwegian Generalised System of Preferences and

.....
(place and date)

(Signature of the exporter; in addition the name of the person signing the declaration has to be indicated in clear script.)”

- (d) The documents referred to in subparagraph (ix) shall be dealt with by –
 - (i) forwarding one copy of the document on which the declaration is made to the consignee;
 - (ii) including with the other export documentation one such copy and a copy of the invoice for retention by the Controller; and
 - (iii) creating a file for storing a copy of the invoice such delivery note or other commercial document and supporting evidence to prove the origin of the goods.
- (e) Any exporter who issues any invoice declaration may be prohibited from issuing such declarations where such exporter –
 - (i) makes a false declaration concerning the origin of the value of any consignment;
 - (ii) does not comply with the requirements of the relevant enactment or these rules;
 - (iii) fails to notify the Senior Manager: Trade Administration that the goods no longer fulfil the required origin conditions (for example, by change of sources or materials).
- (f) If an exporter has been so prohibited from using invoice declarations, such exporter shall apply for Certificate of Origin Form A in respect of all exports for which originating status is claimed.
- (g)
 - (i) If any invoice declaration is required to be made after exportation, the documents reflecting the invoice declaration together with the copies of the other documents produced at the time of export and the documents proving originating status shall be produced and application shall be made to the Officer: Origin Administration at the office of the Controller where the goods were entered for export.
 - (ii) The provisions of rule 49A5.19 shall apply *mutatis mutandis* to such application.

46A5.23 Submission of proof of origin (Ns 25)

- (a) These provisions are only applicable in respect of goods imported when imported for cumulation purposes as contemplated in rule 46A5.07.
- (b) Any proof of origin in respect of imported goods must be –
 - (i) delivered to the Controller at the time the goods are entered home consumption or deemed to have been entered for home consumption; or
 - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
 - (iii) must be in English and if not so a translation must be attached thereto.
- (c) Exporters must submit the Certificate of Origin Form A or the invoice declaration as proof of origin to reach the importer timeously in the country of destination as such proof of origin must be produced to the customs authorities in the country concerned within 10 months from the date of issue in the Republic.
- (d) After such period proof of origin is only accepted –
 - (i) if failure to observe the time limit is due to exceptional circumstances; or
 - (ii) where the goods have been submitted to the customs authorities in the country of destination before the final date of expiry.

46A5.24 Importation by instalments (Ns 26)

- (a) These provisions are only applicable to goods imported for cumulation purposes as contemplated in rule 46A5.07.
- (b) Where any importer requests approval to import goods contemplated in this Article by instalments application shall be in writing and–
 - (i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Group

Manager: Tariff Policy at Head Office and forward a copy of the application to the Senior Manager: Trade Administration;

- (ii) in the case of other dismantled or non-assembled goods within the meaning of general rule 2(a) of the Harmonized System (General Note A 2(a) to Schedule No. 1) and falling within Section XVI or XVII or heading 7308 or 9406 of Part 1 of Schedule No. 1, application shall be made to the Senior Manager: Trade Administration stating a full description of the goods, the tariff heading, the number of consignments and include pro forma invoices of each.
- (c) Copies of proof of origin shall be presented with each bill of entry for the importation of consignments subsequent to the first instalment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry.
- (d) When such goods are exported to Norway, one Certificate of Origin Form A shall be issued and submitted to the importer in the country of destination on exportation of the first instalment.

46A5.25 Exemptions from requirement of formal proof of origin (Ns 27)

- (a) Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage.
- (b) According to the enactments the following general conditions apply to exemption from production of proof of origin in respect of the importations concerned, where –
 - (i) the value of such goods does not exceed the limit of NOK 1 750 (Norway) in the case of small packages or NOK 5 000 in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage for the personal use of the recipients or travellers or their families;

- (iii) the goods have been declared as meeting the requirements of the relevant enactment and there is no reason to doubt the veracity of such declaration.

46A5.26 Discrepancies and formal errors (Ns 28)

- (a) Slight discrepancies in proof of origin documents submitted at the time of entry of imported goods may include –
 - (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) that the information is valid and accurate but not in the correct box;
 - (iv) that the exporter's declaration box is not dated.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors may be accepted provided the documents and goods comply with the conditions contemplated in the relevant enactment.

Chapter V – Administrative matters, etc

46A5.27 Notification of competent authorities (Ns 29)

The stamp in use for issuing certificates of origin must be used for issuing Certificate of Origin Form A.

46A5.28 Mutual assistance (Ns 30)

The Senior Manager: Trade Administration shall be responsible for rendering the assistance contemplated in the relevant enactments to the customs administrations of Norway.

46A5.29 Verification of proof of origin (Ns 31)

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the exporting country.

- (b) If a request is received from the customs authorities in Norway, the exporter, manufacturer, producer or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfilment of the other requirements of the enactments.
- (c) The Senior Manager: Trade Administration shall determine whether or not to refuse entitlement to preferences for goods imported for cumulation purposes in accordance with the circumstances contemplated in the enactments.

46A5.30 Keeping of books, accounts and other documents

- (a) Any books, accounts and other documents kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for the proving of the originating status of the goods and for fulfilling of the other requirements of the related enactment;
- (b) Every exporter or producer or any other person as contemplated in section 46A(3)(b) shall maintain and keep for a period of five (5) years from the date goods were exported complete books, accounts or other documents relating to the origin of goods for which preferential tariff treatment was claimed including any such books, accounts or other documents in connection with –
 - (i)(aa) the purchase of, sale of, cost of, value of, and payment for the goods that are exported;
 - (bb) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the goods exported;
 - (ii) the production of the goods in the form in which they are exported, including proof of the originating status of the materials used and goods produced, the use of materials and other documentation and information to prove the originating status of the goods exported;

- (iii) documents relating to any goods imported from Norway, including proof of origin in respect of any goods exported in the same state as imported or any goods used in the production of goods exported;
 - (iv) the exportation of the goods to the countries concerned;
 - (v) any other documents contemplated in rule 46A5.18(*ij*).
- (c)
 - (i) For the purpose of paragraph (*b*) the books, accounts and other documents must include specifically the following:
 - (*aa*) direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned;
 - (*bb*) documents proving the identity of materials used in production and which contain enough particulars to determine the tariff subheading thereof;
 - (*cc*) documents proving the value of materials used and added value;
 - (*dd*) costing records showing the calculation of the ex-works price;
 - (*ee*) serially numbered invoices of goods sold for export; and
 - (*ff*) copies of Certificate of Origin Form A and all export documents (including transport documents).
 - (ii) The invoiced price is not acceptable as the ex-works price, and may be determined by the Senior Manager: Trade Administration in consultation with the Group Manager: Valuation Policy, where –
 - (*aa*) different terms apply, for example, CIF price;
 - (*bb*) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
 - (*cc*) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (*dd*) a discount has been granted subject to conditions, for example, payment to be made within six (6) months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;

(ee) any other instances where the invoiced price is not an ex-works price.

(d) For the purpose of compliance with the provisions of the enactments, the Controller must keep a copy of the Certificate of Origin Form A and supporting evidence and any related export documents for at least five (5) years after the date of entry of export of the goods concerned.

47B.01 Chargeable passengers: employees

For the purposes of the exclusion of an employee of the operator from the definition of passenger in section 47B(1)-

- (a) the employee must-
 - (i) not be carried for reward;
 - (ii) be engaged in relevant duties;
 - (iii) be performing on board services, at the time of carriage, and
- (b) the employee must within the seventy-two hours next following the end of his/her flight -
 - (i) act as a member of a flight crew;
 - (ii) act as a cabin attendant;
 - (iii) be engaged in relevant duties, or
 - (iv) perform on board services,on, or in respect of, any aircraft; or
- (c) the employee is returning to his/her base and has within the seventy-two hours immediately preceding the beginning of his/her flight -
 - (i) acted as a member of a flight crew;
 - (ii) acted as a cabin attendant;
 - (iii) been engaged in relevant duties; or
 - (iv) performed on board services,on, or in respect of, any aircraft; or
- (d) In this rule -

“base” means the place from which the employee ordinarily operates or at which he/she is ordinarily stationed;

“on board services” means escorting a passenger or goods;

“relevant duties” means -

- (i) repair, maintenance, safety or security work; or
- (ii) ensuring the hygienic preparation and handling of food and drink;
- (iii) airport aircraft handling, airport passenger handling and cargo handling;
- (iv) airline business support services including passenger services, sales, marketing, finance, administration, information technology and human resources functions.

47B.02 Change of flight details or aircraft

- (a) If, due to bad weather or mechanical failure the flight details change, the liability of the passenger and the responsibility of the operator or agent to collect and pay the tax remains as it would have been for the originally planned flight.
- (b) If passengers are transferred to another aircraft, the tax shall be collected and paid by the operator or the agent of such operator of the aircraft to which the passengers are transferred.

47B.03 Registration and register of operators

Every operator shall -

- (a) if such operator is liable or not liable to be registered or gives notice of cancellation of registration or change of registered particulars complete form APT 102 (operator’s application for registration / cancellation or changing of registered particulars);
- (b) if the operator is required to appoint an agent as contemplated in section 47B(5)(a), submit
 - (i) a completed form APT 101 (agent’s application for registration / cancellation or changing of registered particulars) if not submitted separately by the agent;
 - (ii) if required by the Commissioner -
 - (aa) the agent’s letter of appointment; and
 - (bb) a copy of the agreement between the operator and agent.

- (c) if the operator who is liable to be registered ceases to be so liable as contemplated in section 47B(4)(c), and applies for cancellation of the registration -
 - (i) state fully the reasons for cancellation;
 - (ii) produce proof that the operation of chargeable aircraft has ceased or any chargeable aircraft will not be used for the carriage of chargeable passengers as the case may be; and
 - (iii) pay any tax due or certify that no chargeable passengers were carried between the period of the last return and payment of any tax due and the application for cancellation
 - (d)
 - (i) When registration is approved by the Commissioner, the operator will be issued with a numbered registration certificate.
 - (ii) The certificate number shall be quoted in all correspondence with or any document required to be completed by the South African Revenue Service (SARS).
- 47B.04 (a) If an operator is not liable to be registered or the operator ceases to be liable to be registered a numbered certificate of non-liability will be issued to such operator;
- (b) The operator shall quote such certificate number on all correspondence with or any form or other document required to be completed by SARS.
- 47B.05 (a) The register of operators shall reflect the particulars of registered operators, operators no liable to be registered and agents of operators who are required in terms of section 47B(5)(a) to appoint an agent.
- (c) Any registration shall be effective from the date of liability to register.
- (d) Where an operator is not so registered, this fact shall not affect the liability of the operator in respect of any obligation imposed in terms of this Act or the rules.
- 47B.06 Agents

- (a) Application for registration as an agent of an operator who is required to appoint an agent in terms of a section 47B(5)(a) shall be submitted on form APT 101 together with the letter of appointment from the operator.
- (b) An operator shall-
 - (i) appoint an agent and submit form APT 101 in respect of such agent where an agent ceases to be the agent for the operator while the operator is required by section 47B(5)(a) to appoint an agent, within 7 days from the date on which the agent ceases to act; and
 - (ii) submit form APT 101 in respect of the agent who has ceased to act where the agent has not submitted such form.
- (c)
 - (i) On appointment an agent will be issued with a numbered certificate of appointment, which number must be quoted on all correspondence with, and forms or other documents submitted, to SARS.
 - (ii) When the registration is cancelled the certificate must be returned to SARS.
- (d) The agent shall fulfil all the obligations imposed on him in terms of the Act or the rules prior to the date from which he ceases to be an agent.
- (e) Forms APT 101 or 102 shall be submitted for ever change of the registered particulars within 7 days of such change.

47B.07 Rendering of tax accounts and payment

- (a) Every operator who is liable to be registered and every registered operator or every agent, as the case may be, shall, not later than the twenty-first day following upon the end of each accounting period render an tax account during the hours for receipt of payment to the Commissioner of form APT 201 (Return for air passenger tax) at the office of the Controller, Johannesburg International Airport.
- (b) The hours for receipt of payment shall be Monday to Friday, 08:00 till 15:00 (Saturday, Sunday and public holidays excluded).

- (c) Where the last day for rendering a tax account falls on a Saturday, Sunday or public holiday, the account shall be rendered on the last official working day before that day.
 - (d) An accounting period shall be one calendar month and shall commence on the first day and end on the last day of the month.
- 47B.08
- (a) Every operator or an agent shall pay the tax which becomes due in any accounting period prescribed in rule 47B(7)(d) not later than the twenty-first day following the end of that accounting period.
 - (b) Where the last day for the payment falls on a Saturday, Sunday or public holiday, payment shall be made on the last official working day before that day.
 - (c) Payment shall be made by-
 - (i) direct deposit into an account nominated by the Commissioner; or
 - (ii) in cash or by cheque.
- 47B.09 Passenger manifest
- (a) Every operator shall include a completed passenger manifest with every completed form DA 2 for outward clearance whether or not any chargeable passengers are carried on the flight.
 - (b) The passenger manifest shall reflect separately the number of chargeable and non-chargeable passengers and in addition the category of non-chargeable passengers.
 - (c) Notwithstanding paragraph (a), the Controller Johannesburg International Airport may allow any operator to keep or deliver such manifest at such time and at such place and on such conditions as the Controller may determine.
- 47B.10 Keeping and production of books, accounts and other documents

Every operator or agent shall keep books, accounts and other documents in connection with the carriage of passengers carried on every flight, amounts of tax collected and paid, and accounts rendered, for a period of at least five years, during which period such books, accounts and other documents, shall be available for inspection on demand by any officer.

47B.11 General

Forms APT 101, 102 and 201 are obtainable from the Controller at Johannesburg International Airport.

RULES FOR SECTION 49 OF THE ACT

Binding origin determination (Section 49(8))

49.01 Any application for a binding origin in determination shall relate to only one type of goods and one set of circumstances conferring origin and include the following:

- (a) The holder's name and address;
- (b) the name and address of the applicant where that person is not the holder;
- (c) the applicable provisions of the Agreement and Part 1 of Schedule No. 1 in respect of which the binding origin information is required;
- (d) a detailed description of the goods and their tariff classification;
- (e) the composition of the goods and any methods of examination used to determine this and their ex-works price, as necessary;
- (f) the conditions enabling origin to be determined, the materials used and their origin, tariff classification, corresponding values and a description of the circumstances (rules on change of tariff heading, value added, description of the operation or process, or any other specific rule) enabling the conditions in question to be met; in particular the exact rule of origin applied and the origin envisaged for the goods shall be mentioned;
- (g) any samples, photographs, plans, catalogues or other documents available on the composition of the goods and their component materials and which may assist in describing the manufacturing process or the processing undergone by the materials;
- (h) an agreement to supply a translation of any attached document into the official language (or one of the official languages) of the Republic if requested by the customs authorities;
- (ij) any identification of any particulars to be treated as confidential, whether in relation to the public or customs administrations;

- (k) indication by the applicant whether, to his or her knowledge, binding tariff information or binding origin information for goods or materials identical or similar to those referred to under paragraphs (d) or (f) have already been applied for or issued in the country where the goods are produced or manufactured or a tariff determination or binding origin determination has been applied for or issued by the Commissioner;
- (l) subject to paragraph (ij), acceptance that the information supplied may be stored on a public access database of the Commissioner.

49.02 (a) Where, on receipt of the application, it is found not to contain all the particulars required to reach a decision the applicant shall be requested to supply the required information.

(b) The applicant shall be notified -

- (i) of the date all the information needed is received and the application is accepted for the purposes of a decision;
- (ii) of the binding origin determination as soon as possible and within a time limit of 150 days from the date when the application was accepted.

- (c) (i) Binding origin determinations shall be made by the Manager: Commercial Services;
- (ii) The notification of the binding origin determination shall mention the right of appeal provided in section 49;
- (iii) The provisions of rule 49A.30(32) shall *mutatis mutandis* apply in respect of any internal appeal to the Commissioner.

49.03 On entry for home consumption of goods to which a binding determination relates, the holder must-

- (a) be able to prove that the goods concerned and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in such determination; and
- (b) produce the certificate of origin issued by or invoice declaration made by an exporter approved by the customs authorities of the country or countries or group of countries concerned.

49.04 Notwithstanding anything to the contrary contained in any rule for section 49 –

- (a) An accredited client contemplated in section 64E who may clear imported goods electronically in accordance with the provisions of section 101A, the rules made thereunder and the user agreement is, subject to paragraphs (b) and (c) and, unless the Commissioner determines otherwise in respect of any clearance of

such goods, exempted from the requirement to submit at the time of clearance the proof of origin and any supporting documents prescribed in any rule if those goods are to qualify for the benefit of preferential tariff treatment in terms of any agreement to which the rules for section 49 relate.

- (b) For the purposes of paragraph (a) –
 - (i) in clearing goods as contemplated in paragraph (a) the importer shall be deemed to confirm that the goods concerned meet the requirements of the relevant rules of origin.
 - (ii) the electronic clearance must state –
 - (aa) whether a proof of origin certificate or invoice declaration is available as proof of origin;
 - (bb) the proof of origin certificate number if applicable.
- (c) The exemption is not applicable if –
 - (i) in terms of any rule for section 49 –
 - (aa) the proof of origin certificate is invalid or reflects any discrepancies or formal errors;
 - (bb) an invoice declaration is not in accordance with the requirements specified in the relevant agreement as referred to in such rule;
 - (cc) the certificate of origin has been issued retrospectively or is a duplicate certificate; or
 - (dd) the importation is subject to a quota or any other quantity restriction; or
 - (ii) the importer who clears the goods is not, or if the goods are cleared by a licensed clearing agent that agent is not, accredited as contemplated in section 64E; or
 - (iii) the importer is unable to produce at the time of clearance any certificate of origin or invoice declaration or other document confirming the originating status of goods as contemplated in section 49(9).

Agreement on trade, development and co-operation between the European Community and the Republic of South Africa

Part A of the Schedule to general notes to Part 1 of Schedule No.1: Protocol 1: Concerning the definition of the concept of “originating products” and methods of administrative co-operation

- 49A.01 (a) The rules numbered 49A are rules contemplated in section 49(6)(b) in respect of the Agreements on Trade, Development and Co-operation between the European Community and the Republic of South Africa.
- (b) Where any rule reflects a number or numbers in brackets after a serial number, for example, 49A.01(5), the number in brackets refers to the Article number or numbers of Protocol 1 entitled “concerning the definition of the concept of ‘originating products’ and methods of administrative co-operation” of the said Agreement to which the rule relates.
- (c) Any expression used in these rules with reference to the Protocol or the Agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Protocol or provisions of the Act relating to such Protocol or in the said Agreement or in the Notes to Part A of the Schedule to the General Notes to Schedule No. 1.
- (d) The expression-
- (i) “Article” refers to the specified numbered article of the Protocol;
- (ii) “form EUR1” refers to the Movement Certificate EUR1 and includes according to the context, for export purposes, the set of forms comprising the Movement Certificate EUR1, the application form and copy of the application form referred to in rule 49A.14(14), (15)(1)(a); and
- (iii) “goods” as used in these rules means, depending on the context, “goods” or “products” or “materials” as defined in the Protocol;
- (iv) “**producer**” means a registered producer contemplated in paragraph (f) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products, and depending on the context, any person that manufactures, processes or assembles goods or any combination thereof.

- (e) (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6), is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the Manager: Origin Provisions, the Controller or the Officer: Origin Administration or any officer designate to perform such function;
- (ii) For the purposes of subparagraph (i) any Officer: Origin Administration or any other officer authorised by the Manager: Origin Administration or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in the Protocol or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfillment of the other requirements of this Protocol.
- (f) Registration of exporter and producer
For the purposes of section 49(6) and section 59A -
 - (a) every exporter and producer of goods to be exported to any of the member states of the European Community shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, Annexure DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;
 - (ii) a producer, Annexure DA 185.4A7 and form DA 46A.02 incorporated in Section C thereof;
 - (b) if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.

49A.01A Transitional arrangements for application of the procedures contemplated in these rules in respect of goods to which the Generalised System of Preferences (GSP) specified in rules numbered 46A.2 applied until 31 December 2013.

- (a) For the purposes of implementing rule 46A2A –
 - (i) Goods exported under the GSP for which a customs declaration for release for free circulation is accepted by the customs authorities of a European Union Member State –

- (aa) on or before 31 December 2013, the preferential rates of duty under the GSP apply;
 - (bb) on or after 1 January 2014, the new preferences under the TDCA contemplated in rule 46A2A(b) will apply on complying with the requirements of items (A) and (B) of subparagraph (ii).
- (ii)
 - (aa) For goods exported under the GSP before 31 December 2013 that arrive in the European Union Member State after 31 December 2014; and
 - (bb) for goods exported under the Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic (TDCA) on or after 1 January 2014,

GSP preferential rates will apply if more favourable than the rates for goods exported under the TDCA, if –

 - (A) the goods have originating status in accordance with Protocol 1 of the TDCA; and
 - (B) a valid movement certificate EUR 1 or invoice declaration as required in terms of Protocol 1 and these rules is produced.
- (b) For goods contemplated in paragraph (a)(ii)(aa), exporters may, where applicable, apply for a movement certificate EUR 1 issued retrospectively in terms of rule 49A.15(16).
- (c) Exporters and producers, if not already registered, must register in terms of rule 49A.01(f).

PROTOCOL 1

TITLE 1 - GENERAL PROVISIONS

49A.02(1) Article 1 - Definitions

No rule.

TITLE II - DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS”

49A.03(2) Article 2 - General requirements

No rule.

49A.04(3) Article 3 - Cumulation of origin

Whenever originating status is claimed for any product in which materials originating in the Community or any ACP State have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in this Protocol or in these rules keep, available for inspection all appropriate records to prove compliance with the conditions for cumulation as contemplated in Article 3.

49A.05(4) Article 4 - Wholly obtained products

Goods wholly obtained must be so declared on form EUR1 or any invoice declaration and any entry for export.

49A.06(5), (6) Article 5 - Sufficiently worked or processed products
Article 6 - Insufficient working or processing operations

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out in the Community or South Africa in order to distinguish the operations for the purposes of Article 5 and 6.

49A.07(7) Article 7 - Unit of qualification

No rule.

49A.08(8) Article 8 - Accessories, spare parts and tools

No rule.

49A.09(9) Article 9 - Sets

Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purpose of application of these Articles.

49A.10(10) Article 10 – Neutral elements

No rule.

TITLE III - TERRITORIAL REQUIREMENTS

49A.11(11) Article 11 - Principle of territoriality

- (a) For the purposes of this Article “exported” includes goods removed to any SACU country other than the Republic.
- (b) “Transported directly” means goods invoiced to an importer in the Republic by an exporter in the Community (or by a person in another country) and transported directly from the Community to that importer, arriving in the same ship, aircraft or container on which they were loaded in the Community.

49A.12(12) Article 12 - Direct transport

- (a) The evidence specified in Article 12(2) in respect of goods which otherwise qualify for preferential treatment, but which have not been transported directly between the Community and the Republic shall be produced to the Controller at the time of entry together with the form EUR1 or invoice declaration and other documents contemplated in section 39.
- (b) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on the furnishing of a provisional payment or other security as contemplated in and subject to the provisions of section 49(9).

- (c) “A single transport document” may include a through bill of lading or air waybill indicating a contract for the carriage of goods from the country in the Community to the Republic.
- (d) “Any substantiating documents” referred to in Article 12(2)(c) shall be documents, which provide the facts specified in Article 12(1) and may include a declaration by the exporter supported by a statement by the customs authorities of the Community that according to their investigations the facts contained in the declaration are correct or to the extent that although all the facts have not been verifiable they have no reason to doubt their correctness.

49A.13(13) Article 13 - Exhibitions

In addition to the proof of origin referred to in Article 13.2 the importer must produce on entry of the goods imported -

- (a) an invoice from the exporter in the Community endorsed with the statement” these goods were consigned to you from (name and place of exhibition)”; and
- (b) a statement from -
 - (i) the exporter confirming the particulars specified in Article 13(1)(a) to (d); and
 - (i) if the Manager: Origin Administration so requires, the customs authorities in the country of exhibition stating that the goods -
 - (aa) were consigned by the exporter from the Community to the exhibition;
 - (bb) were used solely for exhibition or demonstration;
 - (cc) remained under customs control during their stay in the country of exhibition

TITLE IV - PROOF OF ORIGIN

49A.14(14), (15) Article 14 - General requirements

Article 15 - Procedure for the issue of a movement Certificate EUR1

- (a) Numbered sets of Movement Certificate EUR1 (pages 1 - 2) and the Application For A Movement Certificate (pages 3 - 4) with a duplicate application form (page 5) have been printed in accordance with the provisions of the Protocol and are available on application from the South African Revenue Services at the offices of Controllers specified in paragraph 200.03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to the Community.
- (b)
 - (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
 - (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.
 - (iii) The form EUR1, export bill of entry and supporting documents shall be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Origin Administration otherwise determines.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the form EUR1 and the application form.
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in the Protocol and a duplicate set, certified by him, has been furnished to the agent.

- (f) The letter of authority shall be submitted together with the completed form EUR1 and application form and will be retained by the Controller.
- (g) Completion of a form EUR1 or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of this Protocol;
- (h) Form EUR1 must be completed to be authentic in accordance with the instructions in Article 15, the notes to the certificate and the following requirements:
 - (i) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
 - (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic. In addition to the name and address of the exporter, also insert the registration number referred to in rule 39.08.

Box 2

Insert South Africa in the first line and the country of destination in the Community or Ceuta and Melilla (Article 36), as the case may be, in the second line.

Box 3

Insert the name of the consignee, and for exports to any exhibition outside the Community which are later to be sent to the Community, also insert the name and address of the exhibition.

Box 4

Insert RSA or ACP State or Community (goods imported from the Community re-exported in the same state) or Ceuta and Melilla (Article 36) or the Republic of San Marino (to the extent applicable) or the Principality of Andorra referred to in the definition of products originating in the Community in the Notes to Part A of the Schedule to the General Notes of Part 1 of Schedule No. 1, as the case may be.

Box 5

Insert the country of destination in the Community.

Box 6

Insert the details which will be inserted on the export bill of entry.

Box 7

Insert one of the following endorsements where necessary; otherwise leave the box blank -

“Duplicate” (where application is made for a duplicate as contemplated in Article 17).

“Issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof as contemplated in Article 16).

“Replacement of movement certificate EUR1 / invoice declaration” - Issued in ...(insert the country in which the EUR1 / invoice declaration was issued - to be issued in the circumstances contemplated in Article 18.).

Box 8

- Enter item numbers and identifying marks and numbers in the space on the left-hand side of the box.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- No space must be left between items.
- State identifying marks and numbers on the packages.
- If the packages are addressed to the consignee state the address.
- If they are not marked state “No marks and numbers”.
- For goods in bulk which are not packed insert “In bulk”
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.
- The goods must be identified by giving a reasonably full commercial description and in order that the appropriate tariff heading can be determined, for example, electric insulators (8546) or watch cases and parts (9111). The heading must be stated next to the description.
- If both originating and non-originating goods are packed together describe only the originating goods and add at the end “Part contents only.”
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk on the invoice and the following statement put in box 8, below the description of the goods:
- “Goods marked * on the invoice are non-originating and are not covered by this form EUR1.
- Draw a horizontal line under the only or final item in box 8 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 9

Insert metric measures.

Box 10

Invoices must -

- (a) be serially numbered and the dates and numbers reflected in this box;
- (b) reflect the form EUR1 number or mention the office and date of issue;
- (c) contain a full description of the goods, the tariff heading and reference numbers or other particulars for identification of the goods in the exporter's records; and
- (d) state the country in which the goods originate.

Box 11

- Insert the bill of entry number and date.
- The officer must print his/her initials and surname below his/her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him/her for this purpose.

Box 12

- The initials and surname and capacity of the person signing the certificate must be stated below the signature.
- If the certificate is signed on behalf of a clearing agent the name of the clearing agent must be stated below the signature
- The signature must not be mechanically reproduced or made with a rubber stamp.

(i) No certificate shall be valid -

- (i) If any entered particulars are incorrect and not in accordance with these rules;
- (ii) if it contains any erasures or words written over one another;
- (iii) if altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and

such alterations are initialled by the person who completed the certificate and endorsed by the officer who signs the certificate.

- (j) For the purposes of verification of the originating status of goods declared in the application for form EUR1 (page 4 of the set of forms) the exporter, whether the manufacturer in whose undertaking the last working or processing was carried out or an exporter who has bought in the goods from a manufacturer for exportation in the same state or who re-exports in the same state goods imported from the Community or an ACP State must produce to an officer at any time including at the time of presentation of such application, as the officer may require documents proving the originating status of the goods exported, including -
 - (i) in accordance with the provisions of Article 26, accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned, forms EUR1 and invoice declarations referred to in Article 19(3) proving the originating status of materials used and supplier's declarations;
 - (ii) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
 - (iii) documents proving the value of materials used and added value;
 - (iv) costing records showing the calculation of the ex-works price defined in the Protocol.
- (k) The requirements for signing the declaration on form EUR1 are also applicable in respect of the application form which -
 - (i) must bear the original signature of the person signing the declaration;
 - (ii) must be signed by the same person who signed the declaration on the form EUR1;

- (l) In the space where is stated “Specify as follows the circumstances which have enabled these goods to meet the above conditions” the exporter must state -
- (i) If exported goods are manufactured/wholly obtained by the exporter:
 “The goods shown on the form EUR1 were manufactured / wholly obtained by the exporter and are classified under (4 figure heading). They fulfil the appropriate qualifying provisions of origin of the Protocol.”
 - (ii) If the exporter has bought in goods for export in the same state -
 - (aa) Goods manufactured / wholly obtained in the Republic
 “The goods shown on the form EUR1 were manufactured / wholly obtained in the Republic and are classified under (4 figure heading). Evidence of their originating status as required by the Protocol is held by me;” or
 - (bb) Goods manufactured / wholly obtained in the Community or any ACP State referred to in Article 3 of the Protocol.
 “The goods were imported from.....
 (name of country) under cover of attached.....(state proof of origin, form EUR1 / invoice declaration, as the case may be) and are being exported in the same state. The goods are classified under(4 figure tariff heading).”
 - (iii) In the case of subparagraphs (i) and (ii) (aa), the applicable list rule in the Annex of the Protocol.
- (m) “Supporting documents attached” must include -
- (i) a copy of the bill of lading, air waybill or other transport document, a copy of the export invoice or packing list which must bear reference numbers or other particulars sufficient to allow them to be identified in the exporter’s records;
 - (ii) the documents referred to in paragraph (d)

- (n) The origin administration officer may refuse to certify form EUR1 if he has reasonable doubts about the correctness of the statements made in this form.

49A.15(16) Article 16 – Movement Certificates EUR1 issued retrospectively

- (a) The exporter may only apply for the issue of a form EUR1 after exportation at the office of the Controller where the goods were exported.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by-
 - (i) a completed form EUR1 and its application form of which -
 - (aa) Box 7 shall be endorsed “issued retrospectively”; and
 - (bb) If a form EUR1 has not been issued previously for the goods concerned, the declaration by the exporter shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of the Protocol;
 - (iv) full reasons of the circumstances in which a retrospectively issued form EUR1 is required.
- (c) Before such application is considered an officer will first conduct an examination of the importer’s file as contemplated in Article 16.3.
- (d) The application for the issue of a Movement Certificate EUR1 retrospectively shall be considered by the officer responsible for origin administration in the Controller’s Office

49A.15(17) Article 17 – Issue of a Duplicate EUR1 movement certificate

- (a) The exporter shall furnish to the Officer: Origin Administration at the office of the Controller when the original form EUR1 was issued -

- (i) a written statement giving reasons why a duplicate is acquired and the number and date of the original form EUR1;
 - (ii) a completed form EUR1 and application form reflecting the word “Duplicate” and the number and date of the original form in Box No.7;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued.
- (b) The Officer: Origin Administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original form EUR1 was issued.
- (c) If the officer decides to certify the duplicate form EUR1, he shall stamp and sign it in the same way as any other form EUR1 but in Box 11 after the word “Date” he shall insert the words “from which this duplicate movement certificate is valid” and thereafter the date of the original form EUR1.

49A.17(18) Article 18 – Issue of EUR1 movement certificates on the basis of a proof of origin issued or made out previously (herein referred to as a “Replacement Movement Certificate”)

- (a) Any replacement movement certificate(s) may only be issued in respect of goods which have not been delivered for home consumption, have not undergone further processing and are under customs control.
- (b) Application for any replacement movement certificate(s) may be in respect of -
- (i) all or part of a consignment covered by the original form EUR1 or invoice declaration; or
 - (ii) a collection of goods covered by several original form EUR1 or invoice declarations issued in the same country of origin.
- (c) The application must-

- (i) be made in writing to the Officer: Origin Administration at the office of the Controller where the goods are under customs control stating the reasons for the application;
 - (ii) be accompanied by a completed form EUR1 and application form marked in Box 4 with the country of origin and endorsed in Box 7 with the statement “Replacement of Movement Certificate EUR1 _____ of (number and date) / invoice declaration issued in”(the country in which the movement certificate EUR1 / invoice declaration to be replaced was issued) together with any special statement which appear on the original document;
 - (iii) include a declaration that the goods are the same goods or formed part of the consignment of the goods for which the form EUR1 or the invoice declaration was issued;
 - (iv) include the original form EUR1 or the invoice declaration.
- (d) The original movement certificates EUR1 / invoice declaration and the application form for replacement movement certificate(s) will be retained by the officer.

49A.18(19), (20) Article 19 – Conditions for making out an invoice declaration
Article 20 – Approved exporter

- (a) Any exporter referred to in Articles 19 and 20 shall-
 - (i) ensure that the goods comply with the relevant provisions of origin at the time of export; and
 - (ii) be in possession of the records and documents proving the originating status of the goods exported as contemplated in the rules for Article 15 and Article 26; and
 - (iii) use serially numbered invoices;
 - (iv) insert a reference number or other particulars on any invoice, delivery note or another commercial document according to which the goods can be readily identified in such records and documents;
 - (v) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;

- (vi) insert on any such document the applicable tariff heading;
- (vii) indicate clearly on such documents by means of an asterisk and statement goods which are not of preferential origin;
- (viii) insert on 3 copies of the invoice or such other document the declaration specified in Annex IV of the Protocol, which shall -
 - (aa) be dated and bear the original signature of the exporter if the declaration is not made by an approved exporter;
 - (bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature;
 - (cc) in the case of an approved exporter, contain the customs authorisation number;
- (ix) The documents referred to in subparagraph (viii) shall be dealt with by-
 - (aa) forwarding one copy of the document on which the declaration is made to the consignee;
 - (bb) including with the other export documentation one such copy and a copy of the invoice (if the declaration is not made on the invoice) for retention by the Controller;
 - (cc) creating a file for storing a copy of the invoice, such delivery note or other commercial document and supporting evidence to prove the origin of the goods.

(b) No paragraph.

(c) Application for approved exporter status must be made on forms DA 185, DA 185.4A2 and DA 49A.02.

(d) Any exporter who issues any invoice declaration in the circumstances contemplated in Article 19(1)(b) may be prohibited from issuing such declarations if he -

- (i) makes a false declaration concerning the origin or the value of any consignment;
- (ii) does not comply with the requirements of the Protocol or these rules.

- (e) The approved exporter status contemplated in Article 20 may be withdrawn if such exporter-
 - (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of these rules;
 - (iii) fails to notify the Manager: Origin Administration that-
 - (aa) the goods no longer fulfil the required origin conditions (for example, by change of sources of materials);
 - (bb) the need of approval ceases;
 - (cc) the legal identity or address changed.
- (f) If an exporter has been so prohibited from using invoice declarations or approved exporter status has been so withdrawn such exporter shall apply for form EUR1 in respect of all exports for which originating status is claimed for such time as Manager: Origin Administration may determine.
- (b) If any invoice declaration is made after exportation as contemplated in Article 19(6), the documents reflecting the invoice declaration together with copies of the other documents produced at the time of export and the documents proving originating status shall be produced to the Officer: Origin Administration at the office of the Controller where the goods were entered for export or which is nearest to the post office where the goods were exported.

49A.19(21) Article 21- Validity of proof of origin

- (a) Any goods imported for which originating status for the purpose of qualifying for a preferential rate of duty specified in Part 1 of Schedule No. 1 is claimed shall, if no proof of origin is available, be subject to the provisions of section 49(9).
- (b) Any application for acceptance of proof of origin after the final date of presentation for the purpose of applying preferential treatment as contemplated in Article 21.2 shall be in writing addressed to the Manager: Origin Administration stating fully the exceptional circumstances on which the application is based.

- (c) For the purposes of Article 21.3, any proof of origin belatedly presented will be accepted if the goods have been entered for home consumption before expiry of the period of validity of four months from the date of issue referred to in Article 21.1

49A.20(22) Article 22 - Submission of proof of origin

- (a) Any proof of origin in respect of imported goods must be -
 - (i) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
 - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
 - (iii) must be in English and if not so a translation must be attached thereto;
- (b) Every form EUR1 or invoice declaration produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfillment of the requirements of the Protocol.

49A.21(23) Article 23 - Importation by installments

- (a) Where any importer requests approval to import goods contemplated in this Article by installments application shall be in writing and -
 - (i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Director: Tariff and Values at Head Office and forward a copy of the application to the Manager: Origin Administration;
 - (iii) in the case of other dismantled or non-assembled products referred to in this Article, the application shall be made to the Manager: Origin Administration stating a full description of the goods, the tariff heading, the number of consignments and includes pro-forma invoices of each.

- (b) Copies of the proof of origin shall be presented with each bill of entry for the importation of consignments subsequent to the first installment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry.

49A.22(24) Article 24 - Exemptions from proof of origin

- (a) Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage and are admissible under the provisions of rebate items 407.01 and 407.02 or 412.10.
- (b) According to the Article the following general conditions apply to the exemption from production of proof of origin in respect of the importations concerned, where -
 - (i) the value of such goods does not exceed the limit of EURO 500 in the case of small packages or EURO 1200 in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of traveller's personal luggage;
 - (iii) the goods have been declared as meeting the requirements of the Protocol and there is no reason to doubt the veracity of such declaration.
- (c) The following additional conditions apply for private postal imports -
 - (i) the goods have been sent by one private individual to another direct from the preference country in question;
 - (ii) the sender declares in writing that the origin conditions are satisfied.
- (d) The provisions apply *mutates mutandis* to such goods sent or taken to the Community.

49A.23(25) Article 25 - Supplier's declaration

- (a) A supplier's declaration on the prescribed form DA 49A.01 is required in respect of goods coming from any territory in SACU or manufactured in the Republic if –
 - (i) goods have undergone working or processing without having obtained preferential originating status;
 - (ii) such goods are further worked or processed or used in the manufacture of goods in the Republic for which a proof of origin for originating products is made out in the Republic;
 - (iii) in terms of Article 3.4 the working or processing carried out in SACU is to be considered as having been carried out in the Republic in determining the originating status of such goods.
- (b) No person shall be entitled to the benefit of Article 3.4 unless he is in possession of evidence in the form of a duly completed and supported supplier's declaration regarding the working or processing materials have undergone in SACU.
- (c)
 - (i) A separate supplier's declaration must be made out in respect of each consignment of goods.
 - (ii) The supplier's declaration must be annexed to the invoice, delivery note or other commercial document.
- (d)
 - (i) Such declaration, invoice, delivery note or other commercial document must describe the goods supplied in sufficient detail to be readily identified.
 - (ii) If goods which originate in SACU or which have not been so worked or processed are included on the invoice, delivery note or other commercial document such goods must be separately and clearly indicated by an asterisk or other distinguishing mark.
- (f) The manufacturer in the Republic who uses goods in manufacture for which a supplier's declaration has been issued and takes into account such goods when issuing a proof of origin in the Republic for originating products shall keep such declaration and the invoice, delivery note or other

commercial document together with the other documents proving originating status referred to in Article 27.

49A.24(26) Article 26 - Supporting documents

- (a) In addition to the documents referred to in the Article and in the rules for articles 14 to 15 every exporter who completes a movement certificate EUR1 or an invoice declaration in respect of goods exported shall, if he is the manufacturer, complete or if he bought in the goods from a manufacturer, obtain and keep a supplier's declaration together with all the supporting documents necessary to prove the originating status of the goods concerned.
- (b) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Origin Administration, where -
 - (i) different terms apply, for example, CIF price;
 - (ii) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
 - (iii) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (iv) a discount has been granted subject to conditions, for example, payment to be made within 6 months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
 - (v) any other instances where the invoiced price is not an ex-factory price.
- (d) Any accounting records kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for proving the originating status of the goods and for fulfilling the other requirements of the Protocol.

49A.25(27) Article 27 - Preservation of proof of origin, supplier's declaration and supporting documents

Documents shall be preserved as provided in rule 101.02.

49A.26(28) Article 28 - Discrepancies and formal errors

- (a) Slight discrepancies in proof of origin documents referred to in Article 28(1) submitted at the time of entry of imported goods may include -
 - (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) information valid and accurate but not in correct box;
 - (iv) exporter declaration box not dated;
 - (v) other discrepancies as determined by the Manager: Origin Administration.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors as contemplated in this Article may be accepted provided the documents comply with the conditions contemplated in this Article.

49A.27(29) Article 29 - Amounts expressed in EURO

Any rule for the purposes of this Article will be made under the provisions of section 73(3).

TITLE V – ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION

49A.28(30) Article 30 - Mutual assistance

- (a) The stamp provided for issuing forms EUR1 must be used only for that purpose and only such stamp shall be used for such forms.
- (b) The Manager: Origin Administration shall be responsible for rendering the assistance contemplated in this Article to the customs administrations of the Community.

49A.29(31) Article 31 - Verification of proof of origin

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the Community for verification by the Manager: Origin Administration.
- (b) If any origin administration officer has reasonable doubts about form EUR1 or invoice declaration, the originating status of the goods concerned or the fulfillment of the other requirements of the Protocol such officer may, unless the Manager: Origin Administration otherwise determines, allow release only on the furnishing of adequate security pending a report by the customs authorities of the Community on the originating status of the goods.
- (c) If a request is received from the customs authorities in the Community, the exporter, supplier or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfillment of the other requirements of the Protocol.
- (d) The Manager: Origin Administration shall determine whether or not to refuse entitlement to preferences in the circumstances contemplated in Article 31(6).

49A.30(32) Article 32 - Dispute settlement

- (a) Any person involved in a dispute as contemplated in Article 32(2) concerning any decision or determination in respect of the application or interpretation of any provision of origin may, before any appeal to court as contemplated in section 49(7)(b), submit an internal appeal to the Commissioner within 3 months of the decision or determination concerned.
- (b) Application for internal appeal shall be made on the appeal form obtainable from the Manager: Origin Administration and shall state all the facts and circumstances relating to the dispute in such form which shall be supported by available documentary evidence including the documents in

respect of the relevant customs and excise procedure and legal argument to substantiate the viewpoint expressed in the application.

49A.31(33) Article 33 - Penalties

No rule.

49A.32(34) Article 34 - Free zones

No rule.

TITLE VI – CEUTA AND MELILLA

49A.33(35) Article 35 - Application of the protocol

No rule.

49A.34(36) Article 36 - Special conditions

No rule.

TITLE VII – FINAL PROVISIONS

49A.35(37) Article 37 - Amendments to the protocol

No rule.

49A.36(38) Article 38 - Implementation of the protocol

No rule.

49A.25(39) Article 39 - Goods in transit or storage

- (a) The provisions of this Article may be applied in respect of goods complying with the provisions of this Protocol which are exported from the Community and either in transit to or in a customs and excise warehouse in the Republic on 1 January 2000.

- (b) The provisions of section 49(9) shall apply if no proof of origin is available at the time of entry for home consumption of such goods.
- (c) In order to qualify for such benefit a valid retrospectively issued form EUR1 and proof of direct transport shall be submitted to the Controller where the goods have been entered by not later than 30 April 2000.
- (d) For the purposes of goods exported to the Community the retrospective issue of form EUR1 may be applied for if supported by -
 - (i) proof -
 - (aa) of the originating status of the goods;
 - (bb) that the goods were directly transported;
 - (cc) were in transit to or in temporary bonded warehouses or in free zones in the Community on the said date;
 - (ii) a copy of the bill of entry export and other export documentation.
- (e) Except that -
 - (i) the date in paragraph (a) must read 1 May 2004; and
 - (ii) the date in paragraph (c) must be substituted by “four months after the date of publication of this amendment to the rules”,
 the provisions of paragraph (a) to (d) shall apply *mutatis mutandis* to goods imported from or exported to the new Member States of the Community that were en route or in temporary storage in a customs warehouse or in a free zone on 1 May 2004 as contemplated in Article 6 of the Additional Protocol published as Amendment No. 1 of the Agreement in Part 1 of Schedule No. 10.
- (f) Except that –
 - (i) the date in paragraph (a) must read **1 January 2007**; and
 - (ii) the date in paragraph (b) must be substituted by “four months after the date of publication of this amendment to the rules”,
 the provisions of paragraphs (a) to (d) shall apply *mutatis mutandis* to goods imported from or exported to the two new Member States of the Community, the Republic of Bulgaria and Romania, that were en route or in temporary storage in a customs warehouse or in a free zone on 1 January 2007 as contemplated in Article 4 of the Additional Protocol

published as Amendment No. 2 of the Agreement in Part 1 of Schedule No. 10.

49A.26 General

Documents to be submitted and procedures to be followed on presentation of bills of entry for goods in respect of which preferential treatment is claimed.

49A.26.01 (a) Import bills of entry shall be endorsed -

- (i) whether form EUR1 or an invoice declaration is produced;
- (ii) with the number of the form EUR1 if applicable;
- (iii) whether application is made for a tariff quota.

(b) Export bills of entry shall be endorsed -

- (i) whether form EUR1 or an invoice declaration is produced;
- (ii) whether a tariff quota is applicable;
- (iii) with the number of the EUR1 and export permit number, if applicable.

49A.26.02 Any person entering any imported goods or goods for export for which preferential treatment is claimed shall include with the clearance documents in respect of -

(a) imported goods-

- (i) if the goods are entered for home consumption, form EUR1 and a copy of the invoice or a copy of the invoice endorsed with an invoice declaration, an application for a quota where appropriate, a copy of the bill of lading, air waybill or other transport document, for retention by the Controller;
- (ii) if the goods are entered for storage in a customs and excise warehouse for subsequent entry for home consumption, the proof of origin and any other document required for allowing preferential treatment when the goods are entered for home consumption.

(b) goods for export-

- (i) duly completed form EUR1 where required; and

- (ii) for retention by the Controller, the application form for form EUR1 and a copy of the export invoice, or a copy of any invoice containing an invoice declaration, a copy of the packing list, a copy of the bill of lading, air waybill or other transport document, and except in the case of an approved exporter, the proof of origin;
 - (iii) if an invoice declaration is produced after export a copy of the relevant export bill of entry shall be submitted therewith to the Officer: Origin Administration.
- (c) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.
- (d) Where goods are invoiced in a foreign currency the rate of exchange for the purposes of determining whether they qualify under the rules of origin shall be that applying at the time of shipment as contemplated in section 73.
- (e)
 - (i) If used and secondhand goods exported should bear marks or origin, such marks may be accepted.
 - (ii) If such goods bear no mark of origin, a declaration about the country of manufacture by an acknowledged expert in the trade may be accepted.
 - (iii)
 - (aa) Form EUR1 for second hand motor vehicles and boats exported by private persons must reflect where appropriate the make and type, chassis or body number, engine number and registration number.
 - (bb) The exporter must in addition produce for inspection the invoice or a copy covering the purchase.
 - (cc) The export declaration of the application for form EUR1 need not be completed and in such a case, the exporter may be shown as resident outside the Republic, if applicable.

Tariff quotas

49A.26.03 Export to the Community of goods subject to tariff quotes-

- (a) (i) The goods subject to tariff quotas, the conditions relating to the issue of export permits and the requirements of the Community are specified in Notice 2435 of 1999 published in Gazette No. 20584 of 5 November 1999 published by the National Department of Agriculture.
- (ii) No exporter of goods, subject to tariff quotas, may issue an invoice declaration contemplated in Articles 19 and 20 instead of form EUR1, except if–
 - (aa) approved exporter status is granted on application form DA 185. 4A2 and Annexure DA 49.02; and
 - (bb) a quota is approved by the Department of Agriculture, Forestry and Fisheries
- (ii) Only form EUR1 may be used for the purpose of proof of origin in respect of such goods and such form may not be completed by the exporter, or if completed, certified by an officer unless -
 - (aa) a valid permit issued by the National Department of Agriculture is available; or
 - (bb) in the case of cut flowers referred to in paragraph (b) any balance is available and allocated at the time of presentation of a valid bill of entry export and a duly completed form EUR1 at the office of the Controller;
 - (cc) the circumstances in paragraphs (g) and (h)(iv) are applicable.
- (b) Permits for flowers of heading 06.03 which are required to be applied for to customs and excise as stated in the notice shall be issued at the office of the Controller where the export bill of entry is presented
- (c) Any allocations shall be made under the control of an officer designated by the Manager: Origin Administration on the first come first served basis according to the electronically stored balances available at the time a valid bill of entry export and a duly completed form EUR1 are presented.
- (d) The information regarding the allocation of the tariff quota and balance available shall be printed and filed with the application form EUR1 in respect of each export bill of entry at the office of the Controller.

- (e) The particulars on the bill of entry shall, for the purposes of allocation of the tariff quota, be deemed to be the application therefore by the exporter concerned.
- (f)
 - (i) If a tariff quota is allocated, Box 7 of the form EUR1 shall be endorsed “export tariff quota allocated”.
 - (ii) Below the description in box 8 of form EUR1, the word “subject to export tariff quota” shall be inserted.
- (g) If a lesser quantity of the quota is available, the lesser quantity only shall be endorsed on the form EUR1, supplemented by the words “only, quota exhausted”.
- (h)
 - (i) Any permit issued by the Department of Agriculture shall be delivered to the Controller together with the export bill of entry and completed form EUR1.
 - (ii) The permit number shall be endorsed on the bill of entry export and in the remarks column of the form EUR1.
 - (iii) The quantity exported shall be written off the permit and the permit retained if the quantity is exhausted.
 - (iv) The provisions of paragraph (9) apply *mutatis mutandis* in respect of permits issued by the National Department of Agriculture of which the quantity is insufficient for the consignment concerned.
- (ij) Paragraphs (a) to (h) shall apply *mutatis mutandis* in respect of tariff quotas for the year 2004 calculated in accordance with Article 7 of the Additional Protocol published as Amendment No. 1 of the Agreement in Part 1 of Schedule No. 10.

49A.26.04 Imports from the Community of goods subject to tariff quotas –

- (a) Tariff quotas for imported goods are specified in Note II of the General Notes to Schedule No. 1 and are, as provided, allocated on the first-come-first-served basis at the time of presentation of a valid bill of entry entering the goods for home consumption supported by the required proof

of origin document, any permit from the National Department of Agriculture, if applicable, and an application for such quota.

- (b) Any allocation shall be made under the control of any officer designated by the Manager: Origin Administration according to the electronically stored balances available at the time the bill of entry is processed.
- (c) If the balance of the tariff quota is inadequate, duty at the general rate of duty specified in Part 1 of Schedule No. 1 shall be brought to account in respect of the goods for which no such quota is available before release thereof is granted.

Treaty of the Southern African Development Community and Protocols concluded under article 22 thereof

Rules in respect of Annex I (concerning the rules of origin for products to be traded between the member states of the Southern African Development Community) of the Protocol on Trade of the Treaty

- 49B.01
- (a) Rules in respect of Annex I (concerning the rules of origin for products to be traded between the member states of the Southern African Development Community) of the Protocol on Trade of the Treaty
 - (b) Where any rule reflects a numbers in brackets after a serial number, for example, 49B.01 (5), the number in brackets refers to the Rule number or numbers of Annex I of the Protocol on Trade “Concerning the Rules of Origin for Products to be Traded between the Member States of the Southern African Development Community”. Any additional digit or letter after the number refers to subdivisions of the rule.
 - (b) Any expression used in these rules with reference to Annex I of the Protocol on Trade shall, unless the context otherwise indicates, have the meaning assigned thereto in the said Annex or provisions of the Act relating to such Annex or Protocol or in the Notes to Part B of the Schedule to the General Notes to Schedule No. 1.
 - (d) The expression-
 - (i) “Annex I” includes, according to its context, Annex I and its appendixes of the Protocol on Trade;

- (ii) “goods” as used in these rules means, depending on the context, “goods” or “products” or “material” as defined in Annex I;
 - (iii) “Member State” means a Member State of the SADC;
 - (iv) “Protocol” means the Protocol on Trade;
 - (v) “Rule” refers to the specified numbered Rule of Annex I;
 - (vi) “SCO” refers to the SADC Certificate of Origin and includes according to the context, for export purposes, the set of forms comprising the SADO Certificate of Origin (SCO), the application form and copy of the application form referred to in rule 490.10(9)1(a);
 - (vii) “SACU”, as defined in Annex I, means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland;
 - (viii) “SADC” means Southern African Development Community;
 - (ix) “**producer**” means a registered producer contemplated in paragraph (f) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products, and depending on the context, any person that manufactures, processes or assembles goods on any combination thereof.
- (e) (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6), is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the Manager: Origin Administration, the Controller or any officer designated by that Manager or Controller.
- (ii) For the purposes of subparagraph (i) any officer authorised by the Manager: Origin Administration or the Controller, may exercise any power conferred or duty or function imposed on any authority in Annex I or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of Annex I.

(f) Registration of exporter and producer

For the purposes of section 49(6) and section 59A –

- (i) every exporter and producer of goods to be exported to any of the member states of the Southern African Development Community shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of –
 - (aa) an exporter, Annexure DA 185.4A2;
 - (bb) a producer, Annexure DA 185.4A7;
- (ii) if the exporter is also the producer of the goods concerned, application for registration as exporter as well as producer must be submitted.

ANNEX I

49B.02(1) Rule 1 – Definitions and interpretation

No rule.

49B.03(2) Rule 2 – Origin criteria

49B.03(2) General requirements

(Consigned directly)

- (a) Notwithstanding the requirement that originating goods must be transported directly from one Member State to a consignee in another Member State, goods imported into the Republic consisting of one single consignment may be transported through other territories with, should the occasion arise, transshipment or temporary warehousing in such territories, provided that they remain under the control of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline to the Republic across a territory other than that of a Member State.

- (b) Evidence that the conditions set out in paragraph (a) have been fulfilled shall be supplied at the time of entry by the production of:
 - (i) a single transport document covering the passage from the exporting Member State through the country of transit; or
 - (ii) a certificate issued by the customs authorities of the country of transit,
 - (aa) giving an exact description of the products;
 - (bb) stating the dates of unloading and reloading of the products and full particulars of the means of transport used, and
 - (cc) certifying the conditions under which the products remained in the transit country, or
- (c) failing these, any substantiating documents.

49B.03(2)2 Sufficiently worked or processed products

For the purposes of paragraph 2(c) of Rule 2, Appendix V of Annex I (Regulation on the Tariff Quotas, Time periods and Arrangements for the Administration and Enforcement in respect of Products of HS Chapters 50 to 63 Exported to SACU by Member States) provides for procedures applicable to exportations to and importations into the SACU of goods to which the arrangements relate. Rebate item 460.11 of Schedule No. 4 provides for a rebate of duty in respect of importation of the goods concerned.

49B.03(2)3 Cumulative Treatment

Whenever originating status is claimed for any product in which materials originating in any Member State have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in Annex I or in these rules keep available for inspection all appropriate records to prove the working or processing carried out in each Member State.

49B.04(3) Rule 3 – Processes not conferring origin

No rule.

49B.05(4) Rule 3 – Goods wholly obtained in the member states

Goods wholly obtained must be so declared on the 500 and any entry for export.

49B.06(5) Rule 5 – Unit of qualification

- (a) Where any importer requests approval to import goods contemplated in the Rule in more than one consignment application shall be in writing and -
 - (i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Senior Manager: Customs Legislative and Interpretation at Head Office and forward a copy of the application to the Manager: Origin Administration;
 - (ii) in the case of other unassembled or disassembled goods the application shall be made to the Manager: Origin Administration stating a full description of the goods, the tariff heading, the number of consignments and include pro forma invoices of each.
- (b) Copies of the proof of origin shall be presented with each bill of entry for the importation of consignments subsequent to the first consignment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry.

49B.07(6) Rule 6 – Separation of materials

For the purpose of this Rule, until the conditions agreed upon by the Committee of Minister envisaged in paragraph 2 of the Rules are available and have been enacted into law as contemplated in section 49(9), any person who produces goods for export to a Member State and who intends introducing an appropriate accounting system to replace the separation of originating and non-originating materials shall comply with the following conditions:

- (a) Application shall be made to the Controller in writing;
- (b) such person must produce proof

- (i) that he/she regularly exports the manufactured goods to Member States;
 - (ii) of the impracticability of physical separation of the goods; and
 - (iii) of the identity and interchange ability of the originating and non-originating materials concerned which means that the originating and non-originating materials must be of the same kind and commercial quality and possess the same technical and physical characteristics, and cannot be distinguished from one another for origin purposes when incorporated into the finished product on account of any markings or other identification thereon.
- (c) The accounting system and other records must –
- (i) in accordance with the Rule, be adequate to ensure that no more goods are deemed to originate in the Republic than would have been the case if the producer had been able to physically separate the materials;
 - (ii) make a clear distinction between originating materials and non-originating materials acquired and / or left in stock; and
 - (iii) show that the manufacturer's stocks of originating materials exceeded the non-originating materials at the end of the accounting period which should date back 12 months from the time of any export, or delivery for export to, an exporter.

49B.08(7) Rule 7 – Treatment of mixtures

No rule.

49B.09(8) Rule 8 – Treatment of packing

- (a) Where in accordance with General Rule 5 of the Harmonized System packing is included with the goods for classification purposes or it is included in the dutiable mass as contemplated in Note D of the General Notes to Schedule No. 1, it shall be included for the purposes of determining origin in terms of this Rule.
- (b) Containers defined in section 1(2) of the Act or other imported containers, as the case may be;

- (i) shall be subject to the provisions of section 38;
- (ii) may be entered under heading 86.09 of Part 1 of Schedule No. 1 if classifiable thereunder;
- (iii) may be entered under item 480.05 of Schedule No. 4 on compliance with the provisions of the item.

49B.10(9) Rule 9 – Documentary evidence

49B.10(9)1 Issue of the SADC Certificate of Origin (SCO)

- (a) Numbered sets of SADC Certificate of Origin (SCO) contained in Appendix II to Annex I (pages 1 (original) and 2 (duplicate)) and the Application for SADC Certificate of Origin (SCO) (page 3) and Declaration by the Exporter (page 4) have been printed and are available from the South African Revenue Service at the offices of Controllers specified in paragraph 200.03 of the Schedule to the rules on application by any exporter who wishes to export originating products to the Member States of the SADC.
- (b)
 - (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller;
 - (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss;
 - (iii) The SCO, export bill of entry and supporting documents shall be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Origin Administration or the Controller otherwise determines.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the SCO and the application form;
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and

shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in Annex I and a duplicate set, certified by him, has been furnished to the agent.

- (f) The letter of authority shall be submitted together with the completed SCO and application form and will be retained by the Controller.
- (g) Completion of the 500 or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the Annex.
- (h) The 500 must be completed to be authentic in accordance with the instructions in the notes thereto and the following requirements:
 - (i) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
 - (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic. In addition to the name and address of the exporter, also insert the registration number referred to in rule 39.08 in the space provided.

Box 2

Insert the name and office address of the consignee in the country of destination.

Box 3

Insert one of the following endorsements where necessary:

- (i) “Duplicate” (where application is made for a duplicate SCO)

- (ii) “Issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof)

Box 4

Insert the details which will be inserted on the export bill of entry.

Box 5

No rule.

Box 6

- Enter item numbers and identifying marks and numbers on the packages in the space on the left-hand side of the box.
- If the packages are not marked, state “No marks and numbers”.
- The quantity stated must agree with the quantities on the invoice, for example 100 cartons.
- If the packages are addressed to the consignee, state the address.
- No space must be left between items.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- The goods must be identified by giving a reasonably full commercial description and in order for the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111). The heading must be stated next to the description.
- For goods in bulk that are not packed, insert “In bulk”.
- If both originating and non-originating goods are packed together, describe only the originating goods and add at the end “Part contents only”.

- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk (*) on the invoice and the following statement must be inserted in box 6 below the description of the goods:
“Goods marked * on the invoice are non-originating and are not covered by this form SCOW.
- Draw a horizontal line under the only or final item in box 6 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 7

Insert the tariff heading (four digit code) of Part 1 of Schedule No. 1 in respect of each line of goods described in Box 6.

Box 8

Insert “P” for goods wholly produced or “5” for goods with imported inputs.

Box 9

Insert metric measures.

Box 10

Invoices must –

- be serially numbered and the dates and numbers reflected in this box;
- reflect the SCO number or mention the office and date of issue;
- contain a full description of the goods, the tariff heading and reference numbers or other particulars for identification of the goods in the exporter’s records; and
- state the country in which the goods originate.

Box 11

- The initials and surname and capacity of the person signing the certificate must be stated below the signature.
- If the certificate is signed on behalf of a clearing agent the name of the clearing agent must be stated below the signature.
- The signature must not be mechanically reproduced or made with a rubber stamp.

Box 12

- The officer must print his/her initials and surname below his/her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him/her for this purpose.

Box 13

- Insert the bill of entry number and date and other particulars.
- Follow the instructions in respect of Box 12.

- (i) No certificate shall be valid
- (i) If any entered particulars are incorrect and not in accordance with these rules;
- (ii) if it contains any erasures or words written over one another;
- (iii) if altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialled by the person who completed the certificate and endorsed by the officer who signs the certificate.
- (j) For the purposes of verification of the originating status of goods declared in the application for the SCO, the exporter, whether the manufacturer in whose undertaking the last working or processing was carried out or an exporter who has bought in the goods from a

manufacturer for exportation in the same state or who re-exports in the same state goods imported from a Member State must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including –

- (i) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned, the SCO or any other proof of origin document proving the originating status of materials used and declarations by the producer;
- (ii) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
- (iii) documents proving the value of materials used and added value;
- (iv) costing records showing the calculation of the ex-works price defined in Annex I.

(k) The requirements for signing the declaration on the SCO are also applicable in respect of the application form which –

- (i) must bear the original signature of the person signing the declaration;
- (ii) must be signed by the same person who signed the declaration on the SCO;

(l) In the space where it is stated “Specify as follows the circumstances which have enabled these goods to meet the above conditions” in the Declaration by the Exporter the exporter must state –

- (i) if exported goods are manufactured/wholly obtained by the exporter

“The goods shown on the form SCO were manufactured / wholly obtained by the exporter and classified under _____ (four digit tariff heading). They fulfil the appropriate qualifying provisions of origin of Annex I.

- (ii) If the exporter has bought in goods for export in the same state –

(aa) goods manufactured/wholly obtained in the Republic –

“The goods shown on the form SCO were manufactured / wholly obtained in the Republic and are classified under _____ (four digit tariff heading). Evidence of their originating status as required by Annex I is held by me”; or

(bb) goods manufactured / wholly obtained in a Member State –

“The goods were imported from _____ (name of Member State) under cover of attached _____ (state proof of origin form SCO) and are being exported in the same state. The goods are classified under _____ (four digit tariff heading).”

(iii) in the case of subparagraphs (i) and (ii)(aa), the applicable list rule in Annex I.

(m) “Supporting documents attached” must include –

- (i) a copy of the bill of lading, air waybill or other transport document, a copy of the export invoice or packing list which must bear reference numbers or other particulars sufficient to allow them to be identified in the exporter’s record;
- (ii) the documents referred to in paragraph (j); and (iii) the document referred to in Rule 49B.10(9)9(a).

49B.10(9)2 SADC Certificate of Origin (SCO) issued retrospectively

(a) An 500 may be issued exceptionally after exportation of the goods to which it relates if –

- (i) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- (ii) it is demonstrated to the satisfaction of the authorised officer contemplated in rule 49B.01(e)(ii) that the SCO was issued but was not accepted at importation in the Member State of destination for technical reasons.

- (b) The exporter may only apply for the retrospective issue of the SCO after exportation at the office of the Controller where the goods were exported.
- (c) The application shall be in writing and shall be supported by –
 - (i) a completed SCO and its application form of which –
 - (aa) box 3 shall be endorsed “issued retrospectively”; and
 - (bb) if the SCO has not been issued previously for the goods concerned, the declaration by the exporter shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of Annex I;
 - (iv) full reasons of the circumstances in which a retrospectively issued SCO is required.
- (d) Before such application is considered an officer will first conduct an examination of the exporter’s file for the purpose of verification that the information in such file agrees with the information supplied in the application.
- (e) The application for the issue of the SCO retrospectively shall be considered by the officer responsible for origin administration in the Controller’s Office.

49B.10(9)3 Issue of a Duplicate SCO

- (a) In the event of theft, loss or destruction of an SCO, the exporter may apply for a duplicate made out on the basis of the export documentation in possession of the Controller at the place where the goods were entered for export.
- (b) The exporter shall furnish to the Controller where the original SCO was issued –

- (i) a written statement giving reasons why a duplicate is required and the number and date of the original SCO;
 - (ii) a completed SCO and application form reflecting the word “Duplicate” and the number and date of the original form in Box 3;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued, as prescribed in Rule 49B.10(9)1(m).
- (c) The Controller must –
- (i) ensure that a copy of the original application form is attached to the application form for a duplicate; and
 - (ii) take into account the facts and circumstances considered when the original SCO was issued.
- (d) If the Controller decides to certify the duplicate SCO, he or she shall stamp and sign it in the same way as any other SCO, but in Box 13 after the word “Date”, he or she shall insert the words “from which this duplicate certificate is valid” and thereafter the date of the original SCO

49B.10(9)4 Verification of the Statement contained in the SADC Certificate of Origin (Rule 9(3) and (4))

- (a) Any SCO in respect of imported goods requiring verification shall be submitted on the form Verification of Origin contained in Appendix IV to Annex I by the Manager: Origin Administration to the customs authority of the Member State where the SCO was issued.
- (b) (i) If the Controller has reasonable doubts about an SCO, the originating status of the goods concerned or the fulfilment of the other requirements of Annex I, such Controller may, unless the Manager: Origin Administration otherwise determines, allow release only on the furnishing of adequate security pending a report

by the customs authority of the Member State on the originating status of the goods.

(ii) If the goods concerned are subject to any prohibition in terms of any other law, the goods shall be dealt with as provided in section 113(8).

(iii) If no reply is received within three months as provided for in Rule 9(3), the Manager: Origin Administration may refuse entitlement to preferences in respect of the goods under investigation and any future consignments of such goods.

(c) If a request is received from the customs authorities in any Member State, the exporter, producer or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfillment of the other requirements of Annex I.

49B.10(9)6 Deposit with Secretariat of the SADO of Particulars Specified in Rule 9(6)

(a) The stamp provided for issuing forms SCO must be used only for that purpose and only such stamp shall be used for such forms.

(b) The Manager: Origin Administration shall be responsible for furnishing the Secretariat of the SADC with the particulars regarding the issuing of SADC Certificates of Origin specified in Rule 9(6).

49B.10(9)7 Submission of Proof of Origin

No rule.

(a) Any proof of origin in respect of imported goods must be –

(i) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or

(ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;

(iii) must be in English and if not so a translation must be attached thereto;

(b) Every SCO produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfillment of the requirements of Annex I.

49B.10(9)8 Exemptions from Proof of Origin

Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage and are admissible under the provisions of rebate items 407.01 and 407.02 or 412.10, provided;

- (a) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal baggage;
- (b) the goods have been declared as meeting the requirements of the Protocol and there is no reason to doubt the veracity of such declaration.
- (c) The following additional conditions shall apply in the case of private postal imports –
 - (i) the goods must have been sent by one private Individual to another direct from the preference country in question;
 - (ii) the sender declares in writing that the origin conditions are satisfied.

49B.10(9)9 Declaration by the Producer

(a) The Declaration by the Producer referred to in Rule 9.2 shall, where the exporter is not the producer, be submitted by the exporter together with a copy thereof in support of the application for the SCO as referred to in 49B.10(9)1:

(b) Where non-originating goods –

(i) have undergone working or processing in any other Member State;
and

(ii) such goods are further worked or processed or used in the manufacture of goods in the Republic for which an SCO for originating products is made out in the Republic,

the manufacturer shall obtain and keep available for inspection by an officer, full particulars of the working and processing carried out on the goods in the other Member State in accordance with the provisions of Annex I, for the purpose of proving the originating status of the goods concerned.

(c) No person shall be entitled to the benefit of Rule 2.4 unless he is in possession of evidence regarding the working or processing materials have undergone in a Member State.

(d) (i) A separate record must be kept in respect of each consignment of goods.

(ii) Any documents relating to such goods must describe such goods in sufficient detail to be readily identifiable and to determine the tariff heading.

(iii) If goods which originate in any Member State or which have not been so worked or processed are included on any invoice, delivery note or other commercial document, such goods must be separately and clearly indicated thereon by an asterisk (*) or other distinguishing mark.

49B.10(9)10 Supporting Documents

(a) The documents every exporter or other person contemplated in section 4(12A) must be able to produce in order to prove the originating status of goods, shall include, according to the circumstances, the following –

(i) direct evidence of the processes carried out by the exporter or producer to obtain the goods concerned, contained for example, in his accounts or internal bookkeeping;

(ii) documents proving the originating status of materials used, issued or made out in any other Member State or the Republic;

- (iii) documents proving the working or processing of materials in any other Member State or the Republic, issued or made out in the other Member State or the Republic;
 - (iv) SADC certificates of origin (SCO) proving the originating status of materials used, issued or made out in the Member States or the Republic in accordance with Annex I;
 - (v) any documents proving the working or processing undergone in any Member State of materials used, in accordance with Annex I;
 - (vi) any documents proving the originating status of goods used in working or processing issued in any country outside the SADC.
- (b) Every exporter who completes an SCO shall, if he is the manufacturer, complete, or if he bought in the goods from a manufacturer, obtain and keep, the Declaration by the Producer together with all the supporting documents necessary to prove the originating status of the goods concerned.
- (c) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Origin Administration, where –
- (i) different terms apply, for example, CIF price;
 - (ii) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchases for similar goods;
 - (iii) goods are invoiced by manufacturers to purchases at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (iv) a discount has been granted subject to conditions, for example, payment to be made within 6 months of sale to a distributor, in which case it should be ignored when calculating the ex-works price.
 - (v) any other instances where the invoiced price is not an ex-factory price.
- (d) Any accounting records kept for providing evidence of the originating status of goods shall utilise information prepared in a manner

consistent with generally accepted accounting principles appropriate for proving the originating status of the goods and for fulfilling the other requirements of Annex I.

- (e) Documents shall be preserved as provided in rule 101.03.

49B.10(9)11 Discrepancies and Formal Errors

- (a) Slight discrepancies between the statements made in the SCO and those made in the documents submitted in terms of section 39 of the goods concerned, shall not, render the proof of origin null and void if it is duly established that the SCO does correspond to the goods submitted.
- (b) Obvious formal errors such as typing errors on the SCO should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.
- (c) Slight discrepancies in documents submitted at the time of entry of imported goods may include –
 - (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have not direct bearing on the validity of the SCO;
 - (iii) that the information is valid and accurate but not inserted in the correct box;
 - (iv) that the exporter declaration box is not dated;
 - (v) other discrepancies as determined by the Manager: Origin Administration.
- (d) Any SCO submitted with the slight discrepancies or formal errors contemplated in this rule may be accepted provided the circumstances satisfy the requirements of paragraphs (a) and (b).

49B.11(10) Rule 10 – Infringement and Penalties

- (a) Particulars of any untrue claims in respect of origin as contemplated in Rule 10 shall be reported, and all relevant documents submitted, to the Manager: Origin Administration.

- (b) The Manager: Origin Administration is responsible for informing the Member State in accordance with the provisions on Mutual Assistance and Co-operation in Customs Matters contained in Appendix I of Annex II of the Protocol.

49B.11(11) Rule 11 – Derogations

49B.13(12) Rule 11 – Regulations

Any regulations adopted by the Committee of Ministers (CMT) are enacted into law as provided in section 49(1)(b) and Note 5 to Part B of the Schedule to the General Notes to Schedule No. 1.

- 49B.14 Any person involved in a dispute concerning any decision or determination in respect of the application or interpretation of any provision of origin may, before any appeal to court as contemplated in section 49(7)(b), make use of any procedure provided for in Chapter XA of the Act.

- 49B.15 Documents to be submitted and procedures to be followed on presentation of bills of entry for goods in respect of which preferential treatment is claimed

- (a) Import and export bills of entry shall be endorsed with the SCO number.
- (b) Any person entering any imported goods or goods for export for which preferential treatment is claimed shall include with the clearance documents in respect of –
- (i) Imported goods –
- (aa) if the goods are entered for home consumption, the 500 and a copy of the invoice and packing list, a copy of the bill of lading, air waybill or other transport document, the statement referred to in rule 49B.10(9)7(b) for retention by the Controller;
- (bb) if the goods are entered for storage in a customs and excise warehouse for subsequent entry for home consumption, the 500 and any other document required for allowing

preferential treatment when the goods are entered for home consumption.

- (ii) goods for export –
 - (aa) duly completed SCO, and
 - (bb) for retention by the Controller, the application form for the SCO and a copy of the export invoice, a copy of the packing list, a copy of the bill of lading, air waybill or other transport document, a copy of the Declaration by the Producer, where applicable, and proof of origin.

- (c) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.

49B.16 No rule

(Deleted by Notice R.539 published in GG 37806 on 11 July 2014)

49B.17.01 Customs procedures in respect of the implementation of Annex VII concerning Trade in Sugar in the Southern African Development Community of the Protocol on Trade of the Treaty of the Southern African Development Community

- (a) For the purposes of this section of the rules –
 - (i) “Addendum to Annex VII” means the agreement by the TCS on customs procedures entitled “Customs and Excise Rules for the Implementation of Market Access in terms of Annex VII of the SADC Trade Protocol” inserted as part of Annex VII in terms of the provisions of Notes (1)(b)(ii) and 3(b) of Part B of the General Notes to Schedule No. 1.

“Annex VII” means Annex VII, concerning Trade in Sugar in the Southern African Development Community, inserted after Annex I and its Appendices in Part B of the Schedule to the General Notes to Schedule No. 1 as provided in Note (1)(b) to that Part.

“Non-SACU SADC Member State” means a net surplus sugar producing Member which is a Member State of the SADC but is not a SACU Member State.

“SACU” means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland.

“SACU Central Coordinating Authority” (which the addendum states is SARS (the South African Revenue Service)) shall be the officer to whom any power, duty or function for the purposes of administering the provisions of Annex VII and the Addendum relating to such authority is delegated in these rules.

“SADC Member State” means any SADC Member State listed in paragraph 6 of Note K of the General Notes to Schedule No. 1 which member states are, Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

- (ii) (aa) any expression used in the rules with reference to Annex VII of the Protocol on Trade and the Addendum shall, unless the context otherwise indicates, have the meaning assigned thereto in the said Annex or provisions of the Act relating to such Annex or Protocol or in the Notes of Part B of the Schedule to the General Notes to Schedule No. 1 or in the Notes to item 460.04 of Schedule No. 4.
- (bb) the following definitions in Article 1 of Annex VII are reproduced:

“Marketing Year” means a period of twelve months commencing on 1 April and ending on 31 March and “annual” and “annum” shall have a corresponding meaning;

“MTTQ” means metric tons *tel quell*;

“Sugar” means raw sugar, refined sugar and direct consumption crystal sugar;

“Technical Committee on Sugar (TCS)” means the body comprising representatives of Member States and sugar industries in all Member States;

“Ton” means a metric ton of sugar *tel quell*.

- (iii) (aa) In terms of Article 1 of Annex VII sugar must be wholly produced by the sugar producer in the non-SACU SADC Member State to qualify for a quota.
- (bb) Any reference to sugar imported in these rules shall mean sugar entered under rebate item 460.04 of Schedule No. 4 in which provision is made for a rebate of duty in respect of sugar for which a quota has been allocated and a certificate of origin has been issued as contemplated in the Addendum.
- (iv) In terms of Article 6 of Annex VII –
 - (aa) quotas will be allocated to net surplus sugar producers and determined allocations are not transferable between Member States;
 - (bb) quantities will be measured in MMTQ.
- (v) Any annual quota not used in the quota year may not be transferred to a following year.
- (b) (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6) including those of the SACU Central Coordinating Authority contemplated in the Addendum is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the MOA, the Controller or any officer designated by that Manager or Controller.
- (ii) For the purposes of subparagraph (i) any Officer: Origin Administration or any other officer authorised by the Manager: Origin Administration or by any Controller may exercise any power

referred or duty or function imposed on the customs authority in terms of any provision of Annex VII or the Addendum or on an officer in terms of any other provision of this Act for the purposes of fulfillment, of any requirement of Annex VII or the Addendum.

- (c) Appendix II and Appendix IV to Annex I each respectively contains the specimen SADC certificate of origin and the form of Verification of origin.
- (d) Sugar consigned to an Importer in the Republic may only be entered for customs duty purposes at the offices of Controllers at the places specified in paragraph (g) of item 200.03 of the Schedule to the rules, unless the Manager: Origin Administration permits such entry to be made at any other customs and excise office.

49B.17.02

- (a) Any number reflected in brackets after any rule or paragraph of a rule refers to a paragraph of the Addendum on which the rule is based.
- (b) Procedures applicable to the Manager: Origin Administration (the MOA) in exercising the powers and performing the duties and functions of the SACU central coordinating authority.
 - (i) The MOA shall ensure that SARS is notified in writing by the non-SACU SADC Member State of -
 - (aa) the quota allocating authority responsible for administering the duty-free quota access for net surplus sugar produced in SADC countries (paragraph 1.1 of the Addendum);
 - (bb) the certificate of origin issuing authority responsible for administering the duty-free quota access for net surplus sugar produced in the SADC countries (paragraph 1.2 of the Addendum); and
 - (cc) the particulars of each exporter registered by, and to whom quotas have been allocated by, the quota allocating authority (paragraph 2.2 of the Addendum).

- (ii)
 - (aa) Such Member State is only allowed one quota allocating authority and one certificate of origin issuing authority (paragraph 1.3 of the Addendum).
 - (bb) Only imports of sugar from registered exporters notified as contemplated in subparagraph (i)(cc) may be entered under item 460.04 (paragraph 2.3 of the Addendum).
 - (cc) Quota allocations and adjustments thereof must be notified to the SACU Central Coordinating Authority by the quota allocating authority in writing within seven working days after such allocations or adjustments have been made (paragraph 3.3 of the Addendum).
 - (dd) The MOA must advise all Controllers and the customs administrations of the SACU Member States of the particulars of the quota allocating authority, the origin authority, each registered exporter and the quotas allocated to that exporter.
 - (ee) The MOA must record the details referred to in subparagraph (i) for verification purposes and for deductions when imports are made into SACU (paragraph 2.2 of the Addendum).
 - (iii) In terms of paragraph 5 of the Addendum, the MOA must submit quarterly reports to the TCS on the following:
 - (aa) “The number and details of registered exporters per Member State”;
 - (bb) “The volume and value of certificates of origin utilised by each qualifying Member State; and”
 - (cc) “The quantities still available in terms of allocated quantitative limits for each Member State”.
 - (iv) The MOA must keep complete records of all documentation relating to the administration of the sugar quotas including all notifications to and from the relevant authorities, the TCS and ports of entry

- (v) In terms of paragraph 6 of the Addendum, the MOA must submit quarterly reports to the TCS on the following:
 - (aa) “Number and details of certified exporters per Member State”;
 - (bb) “Number, volume and value per certificate of origin issued by each Member State”;
 - (cc) “Number, volume and value of certificates of origin utilized by each qualifying Member State”; and
 - (dd) “Quantities still available in terms of allocated quantitative limits per qualifying Member State”;
- (vi) The MOA must keep complete records of all documentation relating to the administration of the sugar quotas including all notifications to and from the relevant authorities and the TCS, originals and copies of certificates of origin, copies of the bills of entry import and correspondence with the customs office at the port of entry for a period of five years from the date any consignment is entered for home consumption.
- (c) Procedures applicable to the clearance of sugar at the port of entry:
 - (i) (aa) Upon presentation of an original certificate of origin, the customs authority of the importing SACU Member State shall verify the details of the exporter appearing on the certificate against the details of the registered exporter sent by the quota allocating authority and received from the MOA.
 - (bb) In cases of reasonable doubt, regarding those details, the customs authority of the importing SACU Member State shall, in accordance with the provisions of rule 9(3) and 9(4) of Annex I, submit a report, the certificate of origin, and all relevant documents to the Commissioner for attention of the MOA for verification.
 - (cc) The request for verification shall be submitted by the MOA to the issuing authority on the form contained in Appendix IV to Annex I.
 - (dd) The customs authority shall, in accordance with the provisions of rule 9(4) of Annex I, where the enquiry solely concerns further evidence, allow release of the consignment of sugar on the furnishing of adequate security to cover the duty at the general rate of duty specified in Part 1 of Schedule No. 1.

- (ii) If the certificate of origin is found to be untrue in any material way the consignment must be dealt with as contemplated in rule 49B.17.11(10).
- (iii) The number of the certificate of origin and a declaration that the sugar complies with the requirements of Annex VII and the Addendum, must be endorsed on the import bill of entry concerned.
- (iv) Where sugar for which the certificate of origin has been issued is not exported within 20 working days from the date of issue, duty must be collected at the general rate of duty specified in Part 1 of Schedule No. 1 as contemplated in Note 4(*d*) to item 460.04.
- (v) Customs ports of entry in SACU must –
 - (*aa*) upon clearance notify the Central Coordinating Authority (the MOA in SARS Head Office) of imports under the quota arrangement contemplated in these rules (paragraph 4.4 of the Addendum); and
 - (*bb*) keep certificates of origin, import bills of entry, notifications and other communications received from the MOA and other documents relating to such importations for a period of five years from the date any consignment is entered for home consumption.”

**Free Trade Agreement between the European Free Trade Association States
and the Southern African Customs Union States**

**Part C of the Schedule to General Notes to Part 1 of Schedule No. 1:
Annex V: Concerning the definition of the concept of “originating products”
and methods of administrative co-operation**

- 49D.01 (a) The rules numbered 49D are rules contemplated in section 49(6)(b) in respect of the Free Trade Agreements between the European Free Trade Association States (EFTA) and the Southern African Customs Union States (SACU). The EFTA States comprise the Republic of Iceland, the Principality of Lichtenstein, the Kingdom of Norway and the Swiss Confederation and SACU comprises of the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland.
- (b) Where any rule reflects a number or numbers in brackets after a serial number, for example, 49D.01(5), the number in brackets refers to the Article number or numbers of Annex V entitled “Concerning the Definition of the Concept of ‘Originating Products’ and Methods of Administrative Co-operation” of the said Agreement to which the rule relates.
- (c) Any expression used in these rules with reference to the Annex or the Agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in Annex V or provisions of the Act relating to such Annex or in the said Agreement or in the Notes to Part C of the Schedule to the General Notes to Schedule No. 1.
- (d) The expression-
- (iv) “Article” refers to the specified numbered article of Annex V;
- (v) “form EUR1” refers to the Movement Certificate EUR1 and includes according to the context, for export purposes, the set of forms comprising the Movement Certificate EUR1, the application form and copy of the application form referred to in rule 49D.14(14), (15); and
- (vi) “goods” as used in these rules means, depending on the context, “goods” or “products” or “materials” as defined in Annex V;

- (e)
 - (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6), is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the Manager: Commercial Services, the Controller or any officer designated to perform such function;
 - (ii) For the purposes of subparagraph (i) any officer authorised by the Manager: Commercial Services or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in Annex V or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfillment of the other requirements of Annex V.
- (f) Registration of exporter
For the purposes of section 49(6) and section 59A -
 - (a) every exporter and producer of goods to be exported to any of the member states of the EFTA shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, Annexure DA 185.4A2;
 - (ii) a producer, Annexure DA 185.4A7;
 - (b) if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.

ANNEX V

TITLE 1 - GENERAL PROVISIONS

49D.02(1) Article 1 - Definitions

No rule.

TITLE II - DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS

49D.03(2) Article 2 – Origin Criteria

Goods originating in SACU are considered of single SACU origin, and the Movement Certificate EUR1 or invoice declaration must accordingly reflect “SACU Origin”.

49D.04(3) Article 3 - Cumulation of origin

Whenever originating status is claimed for any product in which materials originating in any EFTA State or any SACU State have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in Annex V or in these rules, keep available for inspection all appropriate records to prove compliance with the conditions for cumulation as contemplated in Article 3.

49D.05(4) Article 4 - Wholly obtained products

Goods wholly obtained must be so declared on the Movement Certificate EUR1 or any invoice declaration and any entry or declaration for export.

49D.06(5), (6) Article 5 - Sufficiently worked or processed products

Article 6 - Insufficient working or processing

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out in an EFTA State or in SACU in order to distinguish the operations for the purposes of Articles 5 and 6.

49D.07(7) Article 7 - Unit of qualification

No rule.

49D.08(8) Article 8 - Accessories, spare parts and tools

No rule.

49D.09(9) Article 9 - Sets

Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purpose of application of these Articles.

49D.10(10) Article 10 – Neutral elements

No rule.

TITLE III - TERRITORIAL REQUIREMENTS

49D.11(11) Article 11 - Principle of territoriality

Where originating status is claimed for goods that have been exported for outward processing the exporter must produce before exportation all relevant documents including any SAD form declaring the goods on importation under item 409.07 of Schedule No. 4 to the Controller for verification whether the provisions of Article 11 have been complied with.

49D.12(12) Article 12 - Direct transport

- (a) “Transported directly” means goods invoiced to an importer in SACU by an exporter in an EFTA State (or by a person in another country) and transported directly from the EFTA State to that importer, arriving in the same ship, aircraft or container on which they were loaded in the EFTA State.
- (b) The evidence contemplated in paragraph 2 of Article 12 in respect of goods which otherwise qualify for preferential treatment, but which have not been transported directly between an EFTA State and a SACU State shall be produced to the Controller at the time of entry together with the Movement Certificate EUR1 or invoice declaration and other documents contemplated in section 39.
- (c) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on the furnishing of a provisional payment or other security as contemplated in and subject to the provisions of section 49(9).
- (d) Documents providing the facts specified in paragraph 1 of Article 12 may include a declaration by the exporter supported by a statement by the customs authorities of the EFTA State that according to their investigations the facts contained in the declaration are correct or to the

extent that although all the facts have not been verifiable they have no reason to doubt their correctness.

49D.13(13) Article 13 - Exhibitions

In addition to the proof of origin referred to in paragraph 2 of Article 13 the importer must produce on entry of the goods imported -

- (a) an invoice from the exporter in the EFTA State endorsed with the statement "these goods were consigned to you from (name and place of exhibition); and
- (b) a statement from -
 - (i) the exporter confirming the particulars specified in paragraphs 1(a) to (d) of Article 13; and
 - (ii) if the Manager: Commercial Services so requires, the customs authorities in the country of exhibition stating that the goods -
 - (aa) were consigned by the exporter from an EFTA State to the exhibition;
 - (bb) were used solely for exhibition or demonstration; and
 - (cc) remained under customs control during their stay in the country of exhibition

TITLE IV - PROOF OF ORIGIN

49D.14(14), (15) Article 14 - General requirements

Article 15 - Procedure for the issue of a Movement Certificate EUR1

- (a) Numbered sets of Movement Certificate EUR1 (pages 1 - 2) and the Application For A Movement Certificate (pages 3 - 4) with a duplicate application form (page 5) have been printed in accordance with the provisions of Appendix 3 to Annex V and are available on application from the South African Revenue Services at the offices of Controllers specified in paragraph 200.03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to an EFTA State.

- (b)
 - (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
 - (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.
 - (iii) The form EUR1, export SAD form and supporting documents shall be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Commercial Services otherwise determines.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the Movement Certificate EUR1 and the application form.
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in Annex V and a certified duplicate set has been furnished to the agent.
- (f) The letter of authority shall be submitted together with the completed Movement Certificate EUR1 and application form and will be retained by the Controller.
- (g) Completion of a Movement Certificate EUR1 or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of Annex V;

(h) The Movement Certificate EUR1 must be completed to be authentic in accordance with the instructions in Article 15, the notes to the certificate and the following requirements:

- (i) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
- (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic. In addition to the name and address of the exporter, also insert the registration number referred to in rule 39.08.

Box 2

Insert SACU in the first line and the name of the EFTA State of destination in the second line.

Box 3

Insert the name of the consignee, and for exports to any exhibition outside an EFTA State which are later to be sent to an EFTA State, also insert the name and address of the exhibition.

Box 4

Insert SACU or the name of the EFTA State.

Box 5

Insert the name of the EFTA State of destination.

Box 6

Insert the details which will be inserted on the export SAD form.

Box 7

Insert one of the following endorsements where necessary; otherwise leave the box blank -

“Duplicate” (where application is made for a duplicate as contemplated in Article 17).

“Issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof as contemplated in Article 16).

“Replacement of movement certificate EUR1 or invoice declaration” - Issued in(insert the country in which the Movement Certificate EUR1 or invoice declaration was issued - to be issued in the circumstances contemplated in Article 18.).

Box 8

- Enter item numbers and identifying marks and numbers in the space on the left-hand side of the box.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- No space must be left between items.
- State identifying marks and numbers on the packages.
- If the packages are addressed to the consignee state the address.
- If they are not marked state “No marks and numbers”.
- For goods in bulk which are not packed insert “In bulk”
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.
- The goods must be identified by giving a reasonably full commercial description and in order that the appropriate tariff heading can be determined, for example, electric insulators (8546) or watch cases and parts (9111). The heading must be stated next to the description.
- If both originating and non-originating goods are packed together describe only the originating goods and add at the end “Part contents only.”
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be

marked with an asterisk on the invoice and the following statement put in Box 8, below the description of the goods:

- “Goods marked * on the invoice are non-originating and are not covered by this Movement Certificate EUR1.
- Draw a horizontal line under the only or final item in box 8 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 9

Insert metric measures.

Box 10

Invoices must -

- be serially numbered and the dates and numbers reflected in this box;
- reflect the Movement Certificate EUR1 number or mention the office and date of issue;
- contain a full description of the goods, the tariff heading and reference numbers or other particulars for identification of the goods in the exporter’s records; and
- state the country in which the goods originate.

Box 11

- Insert the SAD form number and date.
- The initials and surname of the officer must be printed below the signature and date-stamp on the certificate in the space provided for this purpose.

Box 12

- The initials and surname and capacity of the person signing the certificate must be stated below the signature.
- If the certificate is signed on behalf of a clearing agent the name of the clearing agent must be stated below the signature
- The signature must not be mechanically reproduced or made with a rubber stamp.

- (ij) No certificate shall be valid -
- (i) If any entered particulars are incorrect and not in accordance with these rules;
 - (ii) if it contains any erasures or words written over one another;
 - (iii) if altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialled by the person who completed the certificate and endorsed by the officer who signs the certificate.
- (k) For the purposes of verification of the originating status of goods declared in the application for Movement Certificate EUR1 (page 4 of the set of forms) the exporter, whether the manufacturer in whose undertaking the last working or processing was carried out or an exporter who has bought in the goods from a manufacturer for exportation in the same state or who re-exports in the same state goods imported from an EFTA State must produce to an officer at any time including at the time of presentation of such application, as the officer may require documents proving the originating status of the goods exported, including -
- (i) in accordance with the provisions of Article 26, accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned, Movement Certificates EUR1 and invoice declarations referred to in Article 19 proving the originating status of materials used and supplier's declarations;
 - (ii) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
 - (iii) documents proving the value of materials used and added value;
 - (iv) costing records showing the calculation of the ex-works price defined in Annex V.

- (l) The requirements for signing the declaration on Movement Certificate EUR1 are also applicable in respect of the application form which -
- (i) must bear the original signature of the person signing the declaration;
 - (ii) must be signed by the same person who signed the declaration on the Movement Certificate EUR1;
- (m) In the space where is stated “Specify as follows the circumstances which have enabled these goods to meet the above conditions” the exporter must state -
- (i) If exported goods are manufactured or wholly obtained by the exporter:
 “The goods shown on the Movement Certificate EUR1 were manufactured or wholly obtained by the exporter and are classified under (4 figure tariff heading). They fulfil the appropriate qualifying provisions of origin of Annex V.”
 - (ii) If the exporter has bought in goods for export in the same state -
 - (aa) Goods manufactured or wholly obtained in the SACU
 “The goods shown on the Movement Certificate EUR1 were manufactured or wholly obtained (delete which is not applicable) in the SACU and are classified under (4 figure tariff heading). Evidence of their originating status as required by Annex V is held by me;” or
 - (bb) Goods manufactured or wholly obtained in an EFTA State,
 “The goods were imported from..... (name of EFTA State) under cover of attached.....(state proof of origin, Movement Certificate EUR1 or invoice declaration, as the case may be) and are being exported in the same state. The goods are classified under(4 figure tariff heading).”

- (iii) In the case of subparagraphs (i) and (ii) (*aa*), the applicable list rule in the Appendix 2 of Annex V.
- (n) “Supporting documents” must include -
 - (v) a copy of the bill of lading, air waybill or other transport document, a copy of the export invoice or packing list which must bear reference numbers or other particulars sufficient to allow them to be identified in the exporter’s records;
 - (vi) the documents referred to in paragraph (*d*)
- (o) The origin administration officer may refuse to certify Movement Certificate EUR1 if he has reasonable doubts about the correctness of the statements made in this form.

49D.15(16) Article 16 – Movement Certificates EUR1 issued retrospectively

- (c) The exporter may only apply for the issue of a Movement Certificate EUR1 after exportation at the office of the Controller where the goods were exported.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by-
 - (i) a completed Movement Certificate EUR1 and its application form of which -
 - (*aa*) Box 7 shall be endorsed “issued retrospectively”; and
 - (*bb*) if a Movement Certificate EUR1 has not been issued previously for the goods concerned, the declaration by the exporter shall include a statement to this effect;
 - (ii) copies of the export SAD form, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (vii) proof that the goods comply with the provisions of origin of Annex V;
 - (viii) full reasons of the circumstances in which a retrospectively issued Movement Certificate EUR1 is required.

- (c) Before such application is considered an examination of the exporter's file must be conducted as contemplated in paragraph 3 of Article 16.
- (d) The application for the issue of a Movement Certificate EUR1 retrospectively shall be considered by the officer responsible for origin administration.

49D.16(17) Article 17 – Issue of a Duplicate Movement Certificate EUR1

- (a) The exporter shall furnish to the officer designated to perform such function at the office of the Controller where the original Movement Certificate EUR1 was issued -
 - (iv) a written statement giving reasons why a duplicate is required and the number and date of the original Movement Certificate EUR1;
 - (v) a completed Movement Certificate EUR1 and application form reflecting the word “Duplicate” and the number and date of the original form in Box No. 7;
 - (vi) copies of the export SAD form, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued.
- (b) The officer responsible for origin administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original Movement Certificate EUR1 was issued.
- (c) If the officer responsible for origin administration decides to certify the duplicate Movement Certificate EUR1, the officer shall stamp and sign it in the same way as any other Movement Certificate EUR1, but in Box 11 after the word “Date” the officer shall insert the words “from which this Duplicate Movement Certificate is valid” and thereafter the date of the original Movement Certificate EUR1.

49D.17(18) Article 18 – Issue of Movement Certificates EUR. on the basis of a proof of origin issued or made out previously (herein referred to as a “Replacement Movement Certificate”)

- (a) Any replacement Movement Certificate(s) may only be issued in respect of goods which have not been delivered for home consumption, have not undergone further processing and are under customs control.
- (b) Application for any replacement movement certificate(s) may be in respect of -
 - (iv) all or part of a consignment covered by the original Movement Certificate EUR1 or invoice declaration; or
 - (v) a collection of goods covered by several original Movement Certificates EUR1 or invoice declarations issued in the same country of origin.
- (c) The application must-
 - (v) be made in writing to the officer designated to perform such function at the office of the Controller where the goods are under customs control stating the reasons for the application;
 - (vi) be accompanied by a completed Movement Certificate EUR1 and application form marked in Box 4 with the country of origin and endorsed in Box 7 with the statement “Replacement of Movement Certificate EUR1 of(insert the number and date) or invoice declaration issued in”(the country in which the Movement Certificate EUR1 or invoice declaration to be replaced was issued) together with any special statement which appear on the original document;
 - (vii) include a declaration that the goods are the same goods or formed part of the consignment of the goods for which the Movement Certificate EUR1 or the invoice declaration was issued;
 - (viii) include the original Movement Certificate EUR1 or the invoice declaration.
- (d) The original Movement Certificates EUR1 or invoice declaration and the application form for replacement Movement Certificate(s) will be retained by the officer.

49D.18(19), (22) Article 19 – Conditions for making out an invoice declaration

Article 22 – Approved exporter

- (a) Any exporter referred to in Articles 19 and 22 shall-

- (i) ensure that the goods comply with the relevant provisions of origin at the time of export;
- (ii) be in possession of the records and documents proving the originating status of the goods exported as contemplated in the rules for Article 15 and Article 26;
- (ii) use serially numbered invoices;
- (iii) insert a reference number or other particulars on any invoice, delivery note or another commercial document according to which the goods can be readily identified in such records and documents;
- (iv) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
- (v) insert on any such document the applicable tariff heading;
- (vi) indicate clearly on such documents by means of an asterisk and statement goods which are not of preferential origin;
- (vii) insert on three copies of the invoice or such other document the declaration specified in Article 14 paragraph 1(b) of the Annex, which shall -
 - (aa) be dated and bear the original signature of the exporter if the declaration is not made by an approved exporter;
 - (cc) reflect the name and capacity of the person signing the declaration in capital letters below the signature;
 - (cc) in the case of an approved exporter, contain the customs authorisation number;
- (viii) The documents referred to in subparagraph (viii) shall be dealt with by -
 - (aa) forwarding one copy of the document on which the declaration is made to the consignee;
 - (bb) including with the other export documentation one such copy and a copy of the invoice (if the declaration is not made on the invoice) for retention by the Controller; and
 - (cc) creating a file for storing a copy of the invoice, such delivery note or other commercial document and supporting evidence to prove the origin of the goods.

- (b) Application for approved exporter status must be made on the DA 185 form and its relevant Annexures.
- (c) Any exporter who issues any invoice declaration in the circumstances contemplated in paragraph 1(b) of Article 19 may be prohibited from issuing such declarations if he -
 - (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of Annex V or these rules.
- (d) The approved exporter status contemplated in Article 22 may be withdrawn if such exporter-
 - (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of these rules;
 - (iii) fails to notify the Manager: Commercial Services that-
 - (aa) the goods no longer fulfill the required origin conditions (for example, by change of sources of materials);
 - (bb) the need of approval ceases;
 - (cc) the legal identity or address changed.
- (e) If an exporter has been so prohibited from using invoice declarations or approved exporter status has been so withdrawn such exporter shall apply for Movement Certificate EUR1 in respect of all exports for which originating status is claimed for such time as Manager: Commercial Services may determine.
- (f) If any invoice declaration is made after exportation as contemplated in Article 19, the documents reflecting the invoice declaration together with copies of the other documents produced at the time of export and the documents proving originating status shall be produced to the officer designated to perform such function at the office of the Controller where the goods were entered for export or which is nearest to the post office where the goods were exported.

49D.19(20) Article 20- Exemptions from proof of origin

- (a) Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage and are admissible under the provisions of rebate items 407.01 and 407.02 or 412.10.
- (b) The following general conditions provided for in Article 20 apply to exemptions from production of proof of origin in respect of the importations concerned, where -
 - (i) the value of such goods does not exceed the limit of EURO 500 in the case of small packages or EURO 1200 in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage; and
 - (iii) the goods have been declared as meeting the requirements of Annex V and there is no reason to doubt the veracity of such declaration.
- (c) The following additional conditions apply for private postal imports -
 - (i) the goods have been sent by one private individual to another direct from the preference country in question;
 - (ii) the sender declares in writing that the origin conditions are satisfied.
- (d) The provisions apply *mutatis mutandis* to such goods sent or taken to an EFTA State.

49D.20(21) Article 21 – Calculation of national currencies

Any rule for the purposes of Article 21 will be made under the provisions of section 73(3).

49D.21(23) Article 23 – Validity of proof of origin

- (a) Any goods imported for which originating status for the purpose of qualifying for a preferential rate of duty specified in Part 1 of Schedule No. 1 is claimed shall, if no proof of origin is available, be subject to the provisions of section 49(9).

- (b) Any application for acceptance of proof of origin after the final date of presentation for the purpose of applying preferential treatment as contemplated in paragraph 2 of Article 23 shall be in writing addressed to the Manager: Commercial Services stating fully the exceptional circumstances on which the application is based.
- (c) For the purposes of paragraph 3 of Article 23, any proof of origin belatedly presented will be accepted if the goods have been entered for home consumption before expiry of the period of validity of four months from the date of issue referred to in paragraph 1 of Article 23.

49D.22(24) Article 24 – Submission of proof of origin

- (a) Any proof of origin in respect of imported goods must be -
 - (i) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
 - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13; and
 - (iii) must be in English and if not so a translation must be attached thereto.
- (b) Every Movement Certificate EUR1 or invoice declaration produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfillments of the requirements of Annex V.

49D.23(25) Article 25 – Importation by installments

- (a) Where any importer requests approval to import goods contemplated in Article 25 by installments application shall be in writing and -
 - (i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Manager: Tariff Policy in Head Office and forward a copy of the application to the Manager: Commercial Services;
 - (ii) in the case of other dismantled or non-assembled products referred to in Article 25, the application shall be made to the Manager: Commercial Services stating a full description of the goods, the

tariff heading, the number of consignments and includes *pro-forma* invoices of each.

- (b) Copies of the proof of origin shall be presented with each SAD form for the importation of consignments subsequent to the first installment and such SAD form shall reflect the number and date and place of entry of the first SAD form.

49D.24(26) Article 26 - Supporting documents

- (a) In addition to the documents referred to in Article 26 and in the rules for Articles 14 to 15 every exporter who completes a Movement Certificate EUR1 or an invoice declaration in respect of goods exported shall keep all the supporting documents proving the originating status of the goods concerned.
- (b) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Commercial Services, where -
 - (i) different terms apply, for example, CIF price;
 - (ii) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
 - (iii) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (iv) a discount has been granted subject to conditions, for example, payment to be made within six months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
 - (v) any other instances where the invoiced price is not an ex-factory price.
- (c) Any accounting records kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for proving the originating status of the goods and for fulfilling the other requirements of Annex V.

- (d) A unique Consignment Reference must be generated for each export consignment as required in terms of rule 38.15.

49D.25(27) Article 27 - Preservation of proof of origin and supporting documents

Documents shall be preserved as provided in rule 101.02.

49D.26(28) Article 28 - Discrepancies and formal errors

- (a) Slight discrepancies in proof of origin documents referred to in Article 28(1) submitted at the time of entry of imported goods may include -
 - (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) valid and accurate information, but not in correct box;
 - (iv) exporter declaration box not dated;
 - (v) other discrepancies as determined by the Manager: Commercial Services.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors as contemplated in this Article may be accepted provided the documents comply with the conditions contemplated in this Article.

TITLE V – ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION

49D.27(29) Article 29 - Notifications

- (a) The stamp provided for issuing Movement Certificates EUR1 must be used only for that purpose and only such stamp shall be used for such forms.
- (b) The Manager: Commercial Services shall be responsible for rendering the assistance contemplated in Article 29 to the customs administrations of the EFTA States.

49D.28(30) Article 30 – Verification of proofs of origin

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of an EFTA State for verification by the Manager: Commercial Services.

- (b) If any origin administration officer has reasonable doubts about the Movement Certificates EUR1 or the invoice declaration, the originating status of the goods concerned or the fulfillment of the other requirement of Annex V, such officer may, unless the Manager: Commercial Services otherwise determines, allow release only on the furnishing of adequate security pending a report by the customs authorities of an EFTA State on the originating status of the goods.
- (c) If a request is received from the customs authorities in an EFTA State, the exporter, supplier or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfillment of the other requirements of Annex V.
- (d) The Manager: Commercial Services shall determine whether or not to refuse entitlement to preferences in the circumstances contemplated in Article 30(7).

49D.29(31) Article 31 – Dispute settlement

- (a) Any person involved in a dispute as contemplated in Article 31(2) concerning any decision or determination in respect of the application or interpretation of any provision of origin may, before any appeal to court as contemplated in section 49(7)(b), submit an internal appeal to the Commissioner within three months of the decision or determination concerned.
- (b) Application for internal appeal shall be made on the appeal form obtainable from the Manager: Commercial Services and shall state all the facts and circumstances relating to the dispute in such form which shall be supported by available documentary evidence including the documents in respect of the relevant customs and excise procedure and legal argument to substantiate the viewpoint expressed in the application.
- (c) When Part A of Chapter XA comes into operation, any internal administrative appeal shall be subject to the procedures prescribed in that Part and the rules made thereunder.

49D.30(32) Article 32 - Penalties

No rule.

49D.31(33) Article 33 – Free zones

No rule.

49D.32(34) Article 34 – Sub-Committee on Customs and Origin matters

No rule.

49D.33(35) Article 35 - Appendices

No rule.

49D.34(36) Article 36 – Transitional provisions for goods in transit or storage

- (a) The provisions of Article 36 may be applied in respect of goods complying with the provisions of Annex V which are exported from an EFTA State and either in transit to or in a customs and excise warehouse in the Republic on 1 May 2008.
- (b) The provisions of section 49(9) shall apply if no proof of origin is available at the time of entry for home consumption of such goods.
- (c) In order to qualify for such benefit a valid retrospectively issued Movement Certificate EUR1 and proof of direct transport shall be submitted to the Controller where the goods have been entered by not later than 31 August 2008.
- (d) For the purposes of goods exported to an EFTA State the retrospective issue of Movement Certificates EUR1 may be applied for if supported by -
 - (i) proof -
 - (aa) of the originating status of the goods;
 - (bb) that the goods were directly transported;
 - (cc) were in transit to or in temporary bonded warehouses or in free zones in an EFTA State on the said date;
 - (ii) a copy of the export SAD form and other export documentation.

49D.35 Supplier's declarations

No rule.

49D.36 General

Documents to be submitted and procedures to be followed on presentation of SAD forms for goods in respect of which preferential treatment is claimed.

49D.36.01 (a) Import SAD forms shall be endorsed -

- (i) whether a Movement Certificate EUR1 or an invoice declaration is produced;
- (ii) with the number of the Movement Certificate EUR1 if applicable.

(b) Export SAD forms shall be endorsed -

- (i) whether the Movement Certificate EUR1 or the invoice declaration is produced;
- (ii) with the number of the Movement Certificate EUR1, if applicable.

49D.36.02 Any person entering any imported goods or goods for export for which preferential treatment is claimed shall include with the clearance documents in respect of -

(a) imported goods-

- (i) if the goods are entered for home consumption, Movement Certificate EUR1 and a copy of the invoice or a copy of the invoice endorsed with an invoice declaration, a copy of the bill of lading, air waybill or other transport document, for retention by the Controller;
- (iii) if the goods are entered for storage in a customs and excise warehouse for subsequent entry for home consumption, the proof of origin and any other document required for allowing preferential treatment when the goods are entered for home consumption.

(b) goods for export-

- (i) duly completed Movement Certificate EUR1 where required; and
- (iv) for retention by the Controller, the application form for Movement Certificate EUR1 and a copy of the export invoice, or a copy of any invoice containing an invoice declaration, a copy of the packing list, a copy of the bill of lading, air waybill or other transport document, and except in the case of an approved exporter, the proof of origin;

- (v) if an invoice declaration is produced after export a copy of the relevant export SAD form shall be submitted therewith to any officer designated to perform such function.
- (c) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.
- (d) Where goods are invoiced in a foreign currency the rate of exchange for the purposes of determining whether they qualify under the rules of origin shall be that applying at the time of shipment as contemplated in section 73.
- (e)
 - (i) If used and second-hand goods exported should bear marks or origin, such marks may be accepted.
 - (iv) If such goods bear no mark of origin, a declaration about the country of manufacture by an acknowledged expert in the trade may be accepted.
 - (v) Private persons
 - (aa) The Movement Certificate EUR1 for second hand motor vehicles and boats exported by private persons must reflect where appropriate the make and type, chassis or body number, engine number and registration number.
 - (bb) The exporter must in addition produce for inspection the invoice or a copy covering the purchase.
 - (cc) The export declaration of the application for the Movement Certificate EUR1 need not be completed and in such a case, the exporter may be shown as resident outside the Republic, if applicable.

RULES FOR SECTION 54 OF THE ACT

Rules in respect of the importation of cigarettes

54.01 Subject to the proviso to section 54(2) no importer shall import any cigarettes into the Republic unless they are properly packed in an unbroken and unopened container which contains ten, twenty or thirty cigarettes and bears a stamp impression determined in terms of section 54(2).

54.02 The dies for making the stamp impressions referred to in section 54(2) shall be made available by the South African Diplomatic Representatives in foreign countries to suppliers of cigarettes in such countries on payment of an amount such representatives may require from time to time. Such dies shall be made so available on the condition that damaged and worn out dies are returned to the Diplomatic Representative within seven days from the date of replacement of such dies.

RULES FOR CHAPTER VA OF THE ACT IN RESPECT OF ENVIRONMENTAL LEVY GOODS

Application of provisions

Environmental levy imposed on plastic bags and filament lamps in terms of Part 3 of Schedule No. 1

Environmental levy imposed on plastic bags in terms of item 147.01 of Part 3 of Schedule No. 1

54F.01 (a) Rules 54F.01 to 54F.14 apply to plastic bags and filament lamps manufactured in or imported into the Republic that are liable to environmental levy as specified in Part 3 of Schedule No. 1

(b) For the purposes of these rules and any form to which these rules relate, unless the context otherwise indicates-

(i) “accounting period” means the period prescribed in rule 54F.07;

“agreement” means the *pro forma* agreement prescribed in these rules;

“BLNS country” means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland;

“bond” means the *pro forma* bond prescribed in these rules;

“consignor” for the purpose of rule 54F.12 means the licensee of a customs and excise manufacturing warehouse;

“customs and excise laws and procedures” shall have the meaning assigned thereto in rule 59A.01(a);

“goods”, means environmental levy goods specified in Part 3 of Schedule No. 1;

“licensee” means the licensee of a customs and excise manufacturing or storage warehouse;

“manufacturing warehouse” means a licensed customs and excise manufacturing warehouse;

“quarterly” in relation to the account to be submitted by a licensee means the accounting period of three months prescribed in rule 54F.07;

“refund” includes any set-off against, or any deduction from any account required to be submitted by a licensee of a customs and excise warehouse as authorised in terms of any provision of the Act;

“SARS” means the South African Revenue Service;

“storage warehouse” means a licensed customs and excise storage warehouse;

“the Act” includes any provision of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“warehouse” means a licensed customs and excise manufacturing or storage warehouse.

- (c) Except as otherwise provided in Chapter VA and these rules -
 - (i) any provision of the Act relating to -
 - (aa) a customs and excise manufacturing or storage warehouse, the manufacture or storage of goods in such a warehouse including liability for duty, payment of duty, removal of goods from such warehouse for home consumption, removal in bond, export, entry under rebate of duty, the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;
 - (bb) the importation of goods and imported goods;
 - (cc) the exportation of goods;
 - (ii) sections 59A and 60 and the rules therefor including the definitions in such rules;
 - (iii) sections 64D and 64E and the rules therefor including the definitions in such rules; and
 - (iii) the rules numbered 120A,
- shall, as may be applicable, apply *mutatis mutandis* to any environmental goods manufactured in or imported into the Republic.

Delegation

54F.02 Subject to section 3(2), where –

- (a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of this Act, including these rules, is not specifically delegated, or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned, to any Controller or officer in these rules or in any section or rule regulating the operation of customs and excise warehouses,

such power is delegated or such duty is assigned, as the case may be, to the Assistant General Manager: Trade Services, Customs and Excise.

Restrictions in respect of customs and excise warehouses for the manufacture or storage of environmental levy goods

- 54F.03** (a) Customs and excise warehouses for the manufacture or storage of environmental goods manufactured in the Republic may be licensed only for the purposes of –
- (i) manufacture of environmental goods;
 - (ii) storage of such goods for export (including for supply as stores to foreign-going ships or aircraft).
- (b) (i) Environmental levy goods stored as contemplated in paragraph (a)(ii) shall be subject *mutatis mutandis* to the provisions of section 19A; and
- (ii) for the purposes of these rules may not be removed from such warehouse for home consumption and payment of duty, except if the Commissioner, on good cause shown, and subject to such conditions as he may impose in each case, permits such removal.
- (c) Any environmental levy goods imported from a country outside the common customs area, shall, when stored in a customs and excise storage warehouse, in addition to any other provision of the Act, be subject to any exception or adaptation prescribed in these rules.

Applications for and refusal, suspension or cancellation of a licence

- 54F.04** (a) A person applying for a licence or renewal of a licence for a customs and excise manufacturing warehouse or a customs and excise storage warehouse must –
- (i) apply on form DA 185 and the appropriate annexures thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner;
 - (ii) submit with the application the completed agreement in accordance with the *pro forma* agreement specified in these rules;
 - (iii) (aa) before a licence is issued furnish the security the Commissioner may require;
(bb) if security is furnished in the form of a bond, such bond -

- (A) is subject to the provisions of rules 120.08 and 120.09;
- (B) must be in the form determined by the Commissioner;
- (iv) the *pro forma* agreement is specified in terms of and shall form part of this rule.

(b) An expression in the *pro forma* agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act or in the rules for section 60 or these rules.

- (c) (i) The provisions of section 60(2) shall apply *mutatis mutandis* in respect of the refusal of an application for a new licence or renewal of a licence or cancellation or suspension of a licence for a customs and excise warehouse.
- (ii) The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the *pro forma* advice to be issued in respect of suspension or cancellation of a licence.

Issue of invoices or dispatch delivery notes in respect of goods removed from a customs and excise warehouse

- 54F.05** (a) Any licensee of any customs and excise warehouse who removes any environmental levy goods, from such warehouse for any purpose contemplated in section 20(4) and these rules, including for export or for removal to a BLNS country, must in addition to any other document required to be completed in respect of any procedure prescribed in the Act, issue an invoice or dispatch delivery note, serially or transaction numbered and dated which must include at least –
- (i) the licensed name, customs client number, warehouse number (where applicable) and physical address of the licensee who so removes such goods;
 - (ii) a statement: “environmental levy goods” and a description of the goods so removed, the relevant tariff item and if applicable, the rebate item;
 - (iii) the quantity of goods so removed;
 - (iv) the date of removal of the goods;
 - (v) the name or business name (if any) and the address of the person to whom the goods are removed;

- (vi) the number of the customs and excise warehouse to which the goods are removed, if applicable;
 - (vii) where applicable, the price charged for each unit and the total price of the invoiced goods;
 - (viii) where the goods are removed to a destination in the Republic for any purpose other than home consumption, the customs client number of the person to whom the goods are so removed;
 - (ix) a reference number according to which the goods can be readily identified in the production and other accounting records of the manufacturer, or the accounting records of the importer, as the case may be;
 - (x) in all instances, any other particulars required for determining the rate and amount of duty on any goods specified in such invoice and removed from such warehouse.
- (b) (i) (aa) Such invoice or dispatch delivery note issued in respect of environmental levy goods removed for home consumption and payment of duty from a customs and excise manufacturing warehouse, shall, subject to compliance with the requirements of section 38(4) be deemed to be due entry for home consumption for such goods.
- (bb) For the purposes of subparagraph (aa) and section 38(4)(b) such an invoice or dispatch delivery note must also be issued in respect of environmental levy goods removed for distribution free of charge or for use by the licensee.
- (ii) The duty on the goods so removed as contemplated in subparagraph (i) must be accounted for in the monthly accounts as required in terms of rule 54F.07.

Keeping of books, accounts and documents

- 54F.06** (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must –
- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such

document was created, lodged or required for the purposes of any customs and excise procedure;

- (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued;
- (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.

(b) Such books, accounts, documents and data must include-

- (i) Where applicable-
 - (aa) proper accounting records of each type of goods manufactured, imported, received, stored, used or removed;
 - (bb) copies of invoices, dispatch delivery notes, bills of entry, SAD forms, transport documents, orders, payments received and made and proof of delivery to the consignee in respect of goods removed for any purpose excluding home consumption and payment of duty;
 - (cc) copies of the contract of carriage entered into between the licensee and a licensed remover of goods in bond and delivery instructions issued to such remover in respect of each consignment;
 - (dd) copies of the monthly accounts rendered for payment of duty in respect of warehouses authorised to dispose of goods for home consumption;
 - (ee) a stock account balanced monthly whether or not the licensee is authorised to dispose of goods for home consumption and payment of duty.
- (iii) where such warehouse is a manufacturing warehouse, a stock record wherein the licensee must record daily-
 - (aa) receipts of materials for manufacturing;
 - (bb) quantities of materials used and the nature and quantities of environmental levy goods produced from such materials;
 - (cc) the production rate of the materials used;
 - (dd) nature and quantities of by-products or other goods manufactured;

- (ee) a separate record of goods lost, damaged, destroyed and defective goods returned as may be allowed in terms of the relevant item of Schedule No. 6.

Closing and submission of accounts in respect of goods manufactured and received into, and removed from, a customs and excise manufacturing warehouse and payment of duty

54F.07 (a) For the purposes of sections 20(4), 38(4) and 39(2A), any goods to which these rules relate that are entered for removal and removed from any customs and excise manufacturing warehouse for any purpose, including to any other warehouse, shall be subject to the provisions of Chapter VA and *mutatis mutandis* to the provisions of section 19A and to such restrictions, procedures and other requirements prescribed in these rules.

- (b) (i) (aa) Subject to the provisions of these rules, for the purposes of sections 38(4) and 39(2A) and payment of duty, the licensee of a customs and excise manufacturing warehouse must submit, within the period prescribed in subparagraph (ii) -
- (A) accounts on form DA 161A, if applicable, together with any supporting documents prescribed in these rules;
- (B) validating bills of entry (SAD 500);
- (C) payment of the environmental levy goods as calculated on form DA 161A,
- in respect of all environmental levy goods carried forward, received and produced in, and removed from, such warehouse for any purpose during the accounting period contemplated in subparagraph (iv).
- (ii) The documents and payment specified in subparagraph (i) must be submitted by such licensee to reach the Controller within 30 days after the last day of the accounting period, but not later than the penultimate working day of the month following such last day, during the hours of business prescribed in item 201.20 of the Schedule to the rules for acceptance of bills of entry and for receipts of duties and other revenue.
- (iii) If payment is made by electronic funds transfer, proof of such payment must be submitted to reach the Controller during the period and the hours of business specified in subparagraph (ii).

- (iv) For the purposes of subparagraph (i), an accounting period shall be a period of three months calculated from the first day of any month during which manufacturing of environmental levy goods commences or environmental levy goods are manufactured until the last day of the month on which such period ends: Provided that where the month of February is included in any accounting period of a licensee, such period must, irrespective of the date on which it would have ended if so calculated, end on the last day of February and payment effected during March as contemplated in paragraph (b)(ii).
- (c) (i) When completing account form DA 161A, no quantity in respect of any goods removed -
 - (aa) under rebate of duty, or
 - (bb) in bond under the provisions of section 18 to any storage warehouse; or
 - (cc) in terms of any procedure authorising a refund of duty; or
 - (dd) exported under section 18A,
 may be deducted or set-off from the total quantity of goods accounted for on such form, unless it is proved that liability for duty has ceased as contemplated in rule 54F.10.
- (ii) where a lesser quantity of goods is –
 - (aa) removed and entered at the place of destination in the case of goods removed in bond,
 - (bb) exported;
 - (cc) delivered to the rebate user;
 - (dd) or removed in terms of any other procedure;
 only the quantity so entered at the place of destination or exported, delivered or removed may be so deducted or set-off on the relevant form DA 161A.

Duties amended in a taxation proposal under section 58(1)

- 54F.09** (a) The provisions of rule 19A.08 shall apply *mutatis mutandis* if any environmental levy is increased in a taxation proposal as contemplated in section 58.

- 54F.10** (a) Subject to paragraph (b), the provisions of section 18(2) and (3), in the case of environmental levy goods manufactured in the Republic entered for removal in bond from a customs and excise warehouse, or the provisions of section 18A(1) and (2), in the case of such goods entered for export from a customs and excise warehouse, shall apply in respect of the liability and the termination of liability for duty of a licensee who so enters such goods and such liability shall, unless proof has been obtained in an improper or fraudulent manner, cease in the case of –
- (i) (aa) goods contemplated in section 18(3)(a), if the goods have been received in the customs and excise warehouse and entered for re-warehousing at the destination in the Republic; or
 - (bb) goods carried by road to any BLNS country to which they were removed in terms of any document authorised in these rules, the goods have been duly taken out of the Republic;
 - (ii) goods contemplated in section 18A(1) and (2) that are exported by road to any country in Africa, outside the common customs area, when it is proved that the goods have been received in such country at the customs office of destination;
 - (iii) goods exported or removed to any BLNS country by means of any ship or aircraft, when it is proved that the goods have been loaded into, for carriage by such ship or aircraft to the country of destination;
 - (iv) goods carried by rail to any destination outside the Republic, when the licensee confirms that the goods were received by the consignee in the country of destination; or
 - (v) goods entered under rebate of duty for delivery to a rebate user, when such user duly acknowledges receipt of such goods.
- (b) where in respect of any goods removed in bond or removed in terms of any procedure authorising a refund of duty or exported –
- (i) any proof has been improperly or fraudulently obtained; or
 - (ii) any goods are damaged or destroyed or lost or diminished before liability has ceased as contemplated in paragraph (a),
- the licensee shall furnish a full report within 14 days after such an event and pay any duty due to the Controller.

Removal of imported environmental levy goods to a BLNS country or from a BLNS country to the Republic or for export from the Republic to a country outside the common customs area

- 54F.11** (a) (i) Where any environmental levy goods are imported by an importer in the Republic intended for removal to a BLNS country or for export to a destination outside the common customs area, such goods must on importation be entered for storage in a customs and excise storage warehouse licensed for the storage of imported goods.
- (ii) Where such goods -
- (aa) are removed to a BLNS country, such goods must be entered for removal in bond and removed to such country in accordance with section 18 and its rules;
- (bb) are exported to a country outside the common customs area, such goods must be entered for export and exported in accordance with section 18A and its rules;
- (cc) are so removed or exported by road, the carriage of such goods shall, in addition, be subject to section 64D and its rules.
- (iii) Proof that the goods have been duly entered in the BLNS country of destination as contemplated in section 18(3), may include a certified copy of a bill of entry duly processed in such country in terms of which the goods have been entered for customs purposes under the applicable subheading specified in Part 1 of Schedule No. 1.
- (b) Where environmental levy goods are imported by an importer in a BLNS country through a place of entry in the Republic such goods must be removed in bond to such country in terms of section 18 and its rules.
- (c) (i) Any environmental levy goods imported into a BLNS country, shall, when brought into the Republic, from such country, be subject to -
- (aa) both the duties leviable in Part 1 and Part 3 of Schedule No. 1; or
- (bb) if proof of payment of the duty leviable under the said Part 1 is produced, the duty under the said Part 3 (environmental levy) only.

- (ii) Such duty must be paid at the place of entry where the goods enter the Republic.

Environmental levy goods removed from a customs and excise manufacturing warehouse for removal in bond to a destination in the Republic or for removal to a BLNS country or for export or returned from a BLNS country

54F.12 (a) Any environmental levy goods removed from a customs and excise manufacturing warehouse for any of the following purposes must be entered, in the case of -

- (i) export, including supply as stores for foreign-going ships or aircraft, on forms SAD 500 and SAD 502 or SAD 505, at the office of the Controller, before removal of the goods so exported or supplied;
- (ii) rebate of duty, on forms SAD 500 and SAD 502 or SAD 505 at the office of the Controller before each such removal;
- (iii) removal in bond to any customs and excise storage warehouse for export as contemplated in rule 54F.03 or to a duty free shop, on forms SAD 500 and SAD 502 or SAD 505 at the office of the Controller before each such removal.
- (iv) removal to a consignee in a BLNS country, on forms SAD 500 and SAD 502 or SAD 505 in accordance with the procedures prescribed in paragraph (d).

(b) The provisions of paragraph (a)(i) apply *mutatis mutandis* in respect of any goods exported from a customs and excise storage warehouse contemplated in rule 54F.03.

(c) Where environmental levy goods are exported, removed in bond or removed to a BLNS country by a licensee of a manufacturing warehouse or exported by a licensee of a storage warehouse, as the case may be, and are wholly or partly carried by road, such goods must, except where the licensee uses own transport, be carried by a licensed remover of goods in bond contemplated in section 64D.

(d) (i) Environmental levy goods manufactured in the Republic must be removed to a BLNS country for consumption in such country, only,

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- (aa) by a licensee of a customs and excise manufacturing warehouse;
 - (bb) from stocks entered or deemed to have been entered for home consumption and payment of duty as contemplated in rule 54F.07(b);
 - (cc) in accordance with the procedures prescribed in this rule, in order to qualify for set-off of environmental levy against the monthly account as contemplated in rule 54F.13.
- (ii)
 - (aa) The environmental levy goods must be entered on forms SAD 500 and SAD 502 which must be processed at the SARS border post where the vehicle carrying the goods leaves the Republic for the BLNS country of destination.
 - (bb) The invoice of which the number is entered on the form SAD 500, must in addition to any other document required by SARS, accompany the form SAD 500 when it is delivered to the SARS border post for processing.
 - (cc) When processing the form SAD 500 the officer must stamp the invoice (or a copy thereof) with the official date stamp and endorse the number of the form SAD 500 thereon.
 - (dd) The licensee must include in the records to be kept in terms of rule 54F.06 -
 - (A) the consignor's copy of the form SAD 500;
 - (B) the invoice (or copy thereof) endorsed at the SARS border post with the SAD 500 number;
 - (C) copy of the road manifest;
 - (D) proof of delivery to the consignee; and
 - (E) proof of payment for the consignment.
- (e)
 - (i) Whenever goods are removed to such a customs and excise storage warehouse or any other manufacturing warehouse or duty free shop on forms SAD 500 and SAD 502 or SAD 505 in accordance with the provisions of paragraph (a)(iii), the licensee of the receiving warehouse must process forms SAD 500 and SAD 502 or SAD 505 at the office of the Controller in respect of goods so received within seven days after the date of removal from such warehouse.
 - (ii) The licensee of the receiving warehouse must furnish a copy of such processed forms SAD 500 and SAD 502 or SAD 505 to the

licensee of the manufacturing warehouse from which the goods were removed who must keep it on record for the purposes of rule 54F.10.

- (f) Where goods are removed by ship, air or rail to a BLNS country, or for export, the licensee must keep for the purposes of rule 54F.10 -
 - (i) a copy of the bill of lading in respect of goods carried by ship;
 - (ii) a copy of the air waybill in respect of goods carried by aircraft;
 - (iii) a copy of the consignment note in respect of goods carried by rail;
 - (iv) proof of payment for the consignment.
- (g)
 - (i) The licensee must keep a register of each -
 - (aa) form SAD 500 processed;
 - (bb) air waybill, bill of lading or consignment note of goods removed by air, sea or rail to a BLNS country;
 - (cc) air waybill, bill of lading or consignment note of goods exported to a country outside the common customs area.
 - (ii) Such register must include in respect of goods –
 - (aa) removed to a BLNS country the consignee's name and address, invoice number and quantity delivered;
 - (bb) where the goods are carried by road by a licensed remover of goods in bond, the name and client number of such remover.
- (h) The licensee must include with the environmental levy account required to be submitted in terms of rule 54F.03 a statement to the effect that -
 - (i) the goods removed to a BLNS country, goods removed in bond to a customs and excise storage warehouse, a duty free shop or exported as reflected in the account were duly so removed and delivered to the consignee in the BLNS country or the licensee of the storage or exported, as the case may be.
 - (ii) a record of the proof of such removal or export is available at the licensed premises and will be kept in accordance with the requirements of rule 54F.06.
- (ij) Where environmental levy goods manufactured in the Republic are returned from a BLNS country, the environmental levy thereon must be paid at the place of entry where the goods are brought into the Republic.

54F.13 *Deductions from or set-off against accounts*

- (a) Deduction from or set-off against accounts may only be made by the licensee on compliance with the relevant conditions and procedures prescribed in each case.
- (b) Deductions from dutiable quantities may be made in respect of -
 - (i) goods removed in bond or exported where liability has ceased in terms of the Act;
 - (ii) goods for which any rebate of duty is allowed in terms of any item of Schedule No. 6 where the licensee has duly complied with the provisions of such item or where such goods have been received by the person entitled to such rebate, as the case may be;
 - (iii) any set-off referred to in paragraph (c) if so indicated on form DA

161A.

- (c) Set-off is allowed in respect of goods which have been entered or deemed to have been entered for home consumption where such set-off is authorised in terms of any item of Schedule No. 6 on compliance with the requirements of such item.
- (d)
 - (i) Where any goods are returned, the licensee must issue a credit note to the person concerned and must on form DA 161A -
 - (aa) add the goods to stock as returns;
 - (bb) deduct the environmental levy, paid or payable on goods returned by such person from the amount payable;
 - (ii) the licensee must keep a copy of the credit note and the delivery / stock return note from the person who returned the goods with the records contemplated in rule 54F.01.

54F.14 *Implementation of Chapter VA and these rules*

- (a) Every licence applied for before the date the provisions of Chapter VA and these rules come into operation will be issued with effect from the date the said chapter and rules come into operation.

- (b) Every manufacturer must take stock, and keep a stock report on record, in respect of goods liable to the environmental levy on the manufacturing premises and in storage when manufacturing operations stop on the day before these provisions come into operation.
- (c) The quantity of the goods found to be in stock must be shown as an endorsement on the first environmental levy account required to be submitted in terms of these rules.
- (d) The licensee must when issuing any invoice or delivery note contemplated in rule 54F.05 in respect of goods manufactured before the date the environmental levy came into operation, endorse such invoice or note “manufactured before 1 June 2004”.
- (e) In accordance with rule 54F.07(b), the accounting period of three months must commence on 1 June 2004.

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

LICENSING OF CUSTOMS AND EXCISE WAREHOUSES

Pro Forma Agreement between the licensee of a Customs and Excise Warehouse
and the Commissioner

Annexure A

As

(Full name of applicant – hereinafter referred to as “licensee”)

of _____
(Physical address of applicant – not a PO Box)

herein represented by

Full name

Witness

*duly authorised thereto by virtue of –

(a) *a resolution passed at a meeting of the Board of Directors held at
..... on..... day
of; or

(b) *express consent in writing of all the partners of a partnership / *members of the
close corporation / *trustees of the trust; or

(c) *being a person having the management of any other association of persons
referred to in rule 60.02(2)(a)(iv),

has applied for a customs and excise warehouse licence; and

(*Delete whichever is not applicable)

as the Commissioner has considered the application and decided to issue a licence subject to compliance with the terms and conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1. Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner and to maintain such security until such time as the Commissioner is on good cause shown satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
2. Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –
 - (a) understands that its rights to conduct the business of a customs and excise warehouse are subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be imposed by the Commissioner;
 - (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and the provisions of this agreement.
 - (c)
 - (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions as well as the banking accounts and records relating to the business conducted under the licence.
 - (ii) Licensee hereby agrees to and authorises the inspection of such books and documents and business banking accounts as the Commissioner and the delegated officers may require.
 - (d) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee (except in respect of subparagraph (v)) of the licensee -
 - (i) has contravened or failed to comply with the provisions of the Act;

- (ii) has failed to comply with any condition or requirement of this agreement or any condition or obligation imposed by the Commissioner in respect of such licence;
 - (iii) is convicted of any offence under the Act;
 - (iv) is convicted of any offence involving dishonesty;
 - (v) is sequestered or liquidated;
 - (vi) fails to comply with the qualification requirement set out in the rules for section 60; or
 - (vii) ceases to carry on the business for which the licence is issued,
- and licensee acknowledges the right of the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.
- (e) Licensee in addition undertakes:
- (i) to keep on the business premises books, accounts, documents and other records relating to the transactions of the business comprising, where applicable, at least -
 - (aa) in the case of imported goods, copies of the relative import bills of entry, transport documents, suppliers invoices, packing lists, bank stamped invoices, payment advices and other documents required in terms of section 39 of the Act;
 - (bb) in the case of exported goods, copies of the relative export bills of entry, invoices and other transport documents;
 - (cc) in the case of goods subject to rules of origin such records as are prescribed in the rules for sections 46, 46A and 49;
 - (dd) every contract entered into and any instruction given to any licensed remover of goods in bond in respect of the carriage of goods by such remover;
 - (ee) books, accounts, and documents as proof of fulfillment of any obligation relating to the removal of goods in bond, re-warehousing, goods exported or other goods for which such proof as required in terms of any provision of the Act; and
 - (ff) to keep any other books, accounts, documents and other records which may be required in terms of any rule relating to any business transacted as a licensee of a customs and excise warehouse under the provisions of the Act;

- (b) notwithstanding any other provisions in the Act or the rules thereto, to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (c) to answer and to ensure that any employee answers, fully and truthfully any questions of the Commissioner or an officer relating to its business or that of its principal required to be answered for purposes of the Act;
 - (d) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his or her delegated officer may require;
 - (e) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure –
 - (aa) that the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed in accordance with the provisions of the Act;
 - (bb) that every person in the employ of the licensee and engaged in the customs and excise warehouse business of the licensee is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act;
3. Licensee is aware of the obligation to account for all dutiable goods produced or stored and at all times to be able to prove the fulfillment of any obligation relating to the payment of duty, export, removal in bond or other movement of such goods as may be required in terms of any provision of the Act.
4. Licensee understands and accepts -
- (i) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such licence;
 - (ii) the condition prescribed in the rules for section 60 that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be,

transacting the customs and excise related business with clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.

5. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.

6. (a) The licensee chooses *domicillium citandi et executandi* at:

- (b) The Commissioner chooses *domicilium citandi et executandi* at:

7. Thus done and signed at _____ on this _____

Licensee

Witness

Thus done and signed at _____ on this _____

for and on behalf of Commissioner

Witness

Witness

Environmental levy imposed on electricity in terms of item 148.01 of Part 3 of Schedule No. 1

- 54FA.01 (a) The provisions of these rules apply to –
- (i) electricity generated in the Republic that is liable to environmental levy in terms of item 148.01 of Part 3 of Schedule No. 1 and the Notes thereto;
 - (ii) the licensing of an electricity generation plant liable to such levy as a customs and excise manufacturing warehouse, and payment of the levy;
 - (iii) the registration of an electricity producer who operates an electricity generation plant of an installed capacity as prescribed in these rules; and
 - (iv) other matters relating to the administration of electricity generation for the purposes of Chapter VA.
- (b) For the purposes of Chapter VA, these rules and any form to which these rules relate, unless the context otherwise indicates –
- (i) the expressions “**customs and excise laws and procedures**”, “**SARS**” and “**the Act**”, shall have the meanings assigned thereto in rule 54F.01;
 - (ii) the expressions “**co-generation**”, “**renewable sources**” and “**non-renewable sources**” shall have the meanings assigned thereto in the Notes to Section B of Part 3 to Schedule No. 1;
 - (iii) any reference to –
 - “**customs and excise manufacturing warehouse**”, means the premises where an electricity generation plant is situated which must be licensed as such a warehouse;
 - “**electricity generation plant**”, means one or more electricity generation units on the same premises;
 - “**environmental levy**” means the environmental levy imposed in terms of item 148.01 in Part 3 of Schedule No. 1 and the Notes thereto;
 - “**licensed electricity generation plant**”, means an electricity generation plant in which electricity liable to environmental levy is generated and which is licensed as a customs and excise manufacturing warehouse;

“**licensed electricity producer**”, means the licensee of a customs and excise manufacturing warehouse who generates electricity liable to environmental levy; and

“**registered electricity producer**”, means a person who generates electricity in an electricity generation plant of an installed capacity prescribed in, and who is registered in terms of, these rules.

- (c) Except as otherwise provided in Chapter VA and these rules –
- (i) any provision of this Act relating to a customs and excise manufacturing warehouse, liability for duty, payment of duty and the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;
 - (ii) sections 59A and 60 and the rules thereunder including the definitions in such rules; and
 - (iii) section 64E and the rules thereunder including the definitions in such rules,
- shall, as may be applicable, apply *mutatis mutandis* to any registered or licensed electricity producer as contemplated in these rules.

Delegation

54FA.02 Subject to section 3(2), where –

- (a) any power that may be exercised by the Commissioner, except for the power to make rules in accordance with the provisions of this Act, including these rules, is not specifically delegated; or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned,

to any Controller or officer in these rules or in any section or rule regulating the operation of customs and excise manufacturing warehouses, such power is delegated or such duty is assigned, as the case may be, to the Executive: Product Delivery.

Application for a licence and furnishing of security

54FA.03 (a) Every person who generates electricity liable to environmental levy shall license his or her electricity generation plant as a customs and excise manufacturing warehouse.

- (b) The applicant for a licence or renewal of a licence for a customs and excise manufacturing warehouse must –
 - (i) apply on form DA 185 and the relevant annexure thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner;
 - (ii) (aa) before a licence is issued, furnish the security the Commissioner may require;
 - (bb) if security is furnished in the form of a bond, such bond –
 - (A) is subject to the provisions of rules 120.08 and 120.09; and
 - (B) must be in the form as determined by the Commissioner.

Registration

- 54FA.04** (a) Every person who generates electricity and is not required to license his or her generation plant as contemplated in rule 54FA.03 must register on form DA 185 and the appropriate annexure thereto if electricity is generated from–
- (i) non-renewable sources in an electricity plant with an installed capacity exceeding 3MW, but not exceeding 5MW; or
 - (ii) (aa) co-generation as specified in Note 2(c) to item 148.01.01 of Section B of Part 3 of Schedule No. 1; or
 - (bb) sources as specified in Note 2(d) to the said item 148.01.01, in an electricity generation plant with an installed capacity exceeding 3MW.
- (b) The applicant for registration must comply with all the requirements specified in form DA 185 and the appropriate annexures, these rules, section 59A and the rules made thereunder, as maybe applicable, and any additional requirements that may be determined by the Commissioner.

Liability for environmental levy on electricity generated in the Republic

- 54FA.05** Every person who generates electricity liable to environmental levy shall be liable for the payment of that levy from the time the electricity is generated.

Closing and submission of account in respect of electricity generated in a licensed electricity generation plant and payment of environmental levy

- 54FA.06** (a) For the purposes of the payment of environmental levy, the licensed electricity producer must submit within the period prescribed in paragraph (b) –
- (i) accounts on form DA 176, if applicable, together with any supporting documents prescribed in these rules;
 - (ii) payment of the environmental levy as calculated on form DA176, in respect of electricity generated in the licensed electricity generation plant during the accounting period contemplated in paragraph (d).
- (b) The documents and payment specified in paragraph (a) must be submitted by the licensee to reach the Controller within 30 days after the last day of the accounting period, but not later than the penultimate working day of the month following such last day, during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipts of duties and other revenue.
- (c) Proof of payment by electronic funds transfer must be submitted to reach the Controller during the period and the hours of business specified in paragraph (b).
- (d) For the purposes of paragraph (a), an accounting period shall be a month calculated from the first day of a month during which electricity is generated until the last day of that month.
- (e) In accordance with Note 2 to Part 3 and Note 3 to Section B of Part 3 of Schedule No. 1, when completing account form DA 176, no quantity in respect of electricity –
- (i) appropriated for own use;
 - (ii) exported from the Republic; or
 - (iii) lost subsequent to generation,
- may be deducted or set off from the total quantity of electricity generated and accounted for on such form.

Duties amended in a taxation proposal under section 58(1)

54FA.07 The provisions of rule 19A.08 shall apply *mutatis mutandis* if any environmental levy on electricity is increased in a taxation proposal as contemplated in section 58(1).

54FA.08 (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee or registrant must -

- (i) keep proper books, accounts, documents and any data created by means of a computer, of all transactions relating to the generation of electricity for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
- (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act as may be applicable in respect of the manufacture of goods in a customs and excise manufacturing warehouse;
- (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the generation of electricity as the Commissioner may require.

(b) Such books, accounts, documents and data must include –

- (i) a record wherein the licensee or registrant must record daily –
 - (aa) receipts of non-renewable energy sources for generation;
 - (bb) quantities of non-renewable energy sources used and the quantities of electricity generated from such materials;
 - (cc) the production rate of the materials used;
- (ii) a record wherein the registrant must record daily the quantities of electricity generated from–
 - (aa) renewable sources; or
 - (bb) co-generation or sources respectively contemplated in rule 54FA.04(a)(ii)(aa) and (bb);
- (iii) a record from which can be readily ascertained that the electricity generated over a calendar year by a registrant contemplated in rule 54FA.04(a)(ii), is generated in accordance with provisions of Note

2(c) or (d), as may be applicable, to item 148.01.01 of Section B of Part 3 of Schedule No. 1.

Implementation of Chapter VA and these rules

- 54FA.09** (a) Every licence or registration applied for before the date the provisions of these rules come into operation will be issued with effect from the date the said rule come into operation.
- (b) In accordance with rule 54FA.06, the accounting period of one month commences on 1 July 2009.

“Implementation of the amendments to Note 2(c) and (d) and other Notes of Section B of Part 3 of Schedule No. 1

- 54FA.10 (a) For the purposes of implementing Note 2(c) or (d) of Section B of Part 3 of Schedule No. 1 with effect from 1 July 2009, a person who generates electricity from sources contemplated in Note 2(d) or Note 5 of Section B of Part 3 of Schedule No. 1 in an electricity generating plant with an installed capacity exceeding 3MW, must submit a report, prepared, signed and certified by an engineer accredited with the Engineering Council of South Africa, of the electricity so generated for every calendar year as contemplated in Note 6 of Section B of Part 3 of Schedule No. 1.
- (b) If a person is not required to license his or her electricity plant as contemplated in paragraph (c), the report referred to in paragraph (a) for the calendar years—
- (i) 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011 must be submitted to reach the Commissioner on or before 29 February 2012; and
- (ii) commencing 1 July 2011, must be submitted to reach the Commissioner within 30 days after the end of each calendar year.
- (c) Where according to the report referred to in paragraph (a) the electricity generated does not comply with Note 2(c) or (d) of Section B of Part 3 of Schedule No. 1, as may be applicable, for any calendar year and such electricity is generated in an electricity generation plant with an installed capacity exceeding 5MW, the electricity producer must—

- (i) *(aa)* in the case of any of the two calendar years 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011, apply before 29 February 2012; and
- (bb)* in respect of any following calendar year, apply within 10 days after the end of that calendar year,
for a licence for his or her electricity generation plant as contemplated in rule 54FA.03;
- (ii) subject to paragraph *(d)*, submit an account on form DA 176, the report referred to in paragraph *(a)* and payment of the environmental levy due to reach the Commissioner within 30 days after the end of that calendar year.
- (d)
 - (i) In respect of the calendar years 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011, completed forms DA 176, the report and payment must be submitted to reach the Commissioner on or before 23 March 2012.
 - (ii) Except as otherwise specified in this rule, the provisions of rule 54FA.06(*a*), (*b*), (*c*) and (*e*), with the necessary changes, apply to the submission of form DA 176 and payment contemplated in paragraph *(c)*(ii) and subparagraph (i).
 - (iii) On licensing the electricity generation plant as contemplated in paragraph *(c)* any registration issued to the licensee in terms of rule 54FA.04(*a*) will be cancelled.
- (e) A licensee contemplated in paragraph *(c)* who—
 - (i) generates electricity complying with Note 2(c) or (d), as may be applicable, during the following calendar year must submit the report referred to in paragraph *(a)* together with a nil return on form DA 176 to reach the Commissioner within 30 days after the end of that calendar year;
 - (ii) for two consecutive calendar years generates electricity complying with the said Note 2(c) and (d), as may be applicable, may thereafter

on good cause shown apply to the Commissioner for cancellation of the licence and for registration in terms of paragraph 54FA.04(a).

(f) Any engineer who compiles a report as contemplated in rule 54FA.10(a), which—

- (i) contains a false statement or misleading information which he or she did not believe to be true or could not reasonably have believed to be true; or
 - (ii) omits to state information which was omitted with the intention to mislead,
- is guilty of an offence.

“Environmental levy imposed on carbon dioxide emissions of new motor vehicles manufactured in or imported into the Republic in terms of items 151.01 or 151.02 in Section D of Part 3 of Schedule No. 1

54FB.01 (a) The provisions of these rules apply to—

- (i) new motor vehicles manufactured in or imported into the Republic of which the carbon dioxide emissions are liable to environmental levy in terms of items 151.01 or 151.02 in Section D of Part 3 of Schedule No. 1;
 - (ii) the export of such new motor vehicles to any BLNS country or to any country outside the common customs area;
 - (iii) the submission of accounts for the environmental levy;
 - (iv) other matters relating to the administration of the environmental levy for the purposes of Chapter VA.
- (b) For the purposes of Chapter VA, these rules and any form to which these rules relate, unless the context otherwise indicates—
- (i) the expressions **“BLNS country”, “customs and excise laws and procedures”, “licensee”, “manufacturing warehouse”, “SARS”, “storage warehouse”, “the Act” and “warehouse”**, shall have the meanings assigned thereto in rule 54F.01;
 - (ii) **“environmental levy”** means the environmental levy imposed in terms of items 151.01 or 151.02 in Section D of Part 3 of Schedule No. 1 and the Notes thereto;

“new motor vehicle” means a new motor vehicle to which the environmental levy applies; and

“motor vehicle type”, for the purposes of Rule 54FB.03(b), means a category of power driven motor vehicles which does not differ in such essential aspects as body, power train, transmission, traction battery (if applicable), tyres and unladen mass.

(c) Except as otherwise provided in Chapter VA and these rules—

(i) any provision of this Act relating to—

(aa) a customs and excise manufacturing or storage warehouse, the manufacture or storage of goods in such a warehouse including liability for duty, submission of accounts, payment of duty, removal of such goods for home consumption, removal in bond, export, entry under rebate of duty, refund of duty, keeping of books, accounts and documents, the responsibility of the licensee and any other requirement prescribed in connection with such warehouse;

(bb) the importation of goods and imported goods;

(cc) the exportation of goods and goods exported;

(ii) sections 36A, 59A and 60, 64D and 64E and the rules made thereunder and the definitions in such rules;

(iii) the rules numbered 54F and 120A

shall as may be applicable, apply *mutatis mutandis* to any environmental levy goods manufactured in or imported into or exported from the Republic.

Closing and submission of accounts for environmental levy

54FB.02 An account for payment of environmental levy must be—

(a) completed quarterly on form DA 177;

(b) submitted together with form DA 75; and

(c) the environmental levy paid at the same time,

as prescribed in rule 36A.04 in respect of excise duty.

Test reports

54FB.03 (a) Every importer or manufacturer of a new motor vehicle type must obtain and retain a test report in respect of the carbon dioxide emission of such a vehicle

type from a testing laboratory recognised by the National Regulator for Compulsory Specifications of South Africa.

- (b) The report referred to in paragraph (a) must be kept available for inspection and produced or submitted at the request of an officer for a period of five years from the date the vehicle was manufactured or imported.
- (c) Where the importer or manufacturer fails to obtain or submit a test report in respect of a new motor vehicle type upon request, the Commissioner must calculate the carbon dioxide emission of such a vehicle type in terms of the method specified in Note 5 to Section D of Part 3 of Schedule No.1

New motor vehicles exported to a BLNS country

54FB.04 Where a new motor vehicle is exported to a BLNS country–

- (a) from a customs and excise warehouse, the vehicle must be removed in bond in terms of the provisions of section 18 and the rules applicable to such a removal;
- (b) from duty paid stocks by–
 - (i) a licensee of a customs and excise manufacturing warehouse or by a financial institution which finances the transaction and is duly authorised by the licensee, a refund of environmental levy paid or payable on a vehicle manufactured in the Republic, may be set-off by the licensee against the environmental levy payable on the quarterly environmental levy account on complying with item 681.01 of Schedule No. 6 and the Notes thereto;
 - (ii) an authorised dealer of a licensee of a customs and excise manufacturing warehouse, any refund of environmental levy paid on a vehicle manufactured in the Republic, is subject to compliance with item 681.05 of Schedule No. 6 and the Notes to Part 4 of that Schedule, as may be applicable;
 - (iii) an importer, any refund of environmental levy paid on an imported vehicle is subject to compliance with item 551.02 of Schedule No. 5 and the Notes to Part 5 of that Schedule, as may be applicable.

Implementation provisions

- 54FB.05 (a) These provisions apply to locally manufactured or imported new vehicles cleared for home consumption from 1 September 2010.
- (b) Licensees may include environmental levy payable for September 2010 with the accounts for the quarter 1 October 2010 to 31 December 2010.
- (c) Any licence issued in respect of a manufacturing warehouse for the manufacture of motor vehicles liable to excise duty will be regarded as including the manufacture of motor vehicles of which the carbon dioxide emissions are liable to environmental levy.
- (d) Licensees may include environmental levy payable for March 2011 in terms of environmental levy item 151.02 with the accounts for the quarter 1 April 2011 to 30 June 2011.

CHAPTER VI

ANTI-DUMPING, COUNTERVAILING AND SAFEGUARD DUTIES

No rules promulgated

CHAPTER VII

AMENDMENTS OF DUTIES

No rules promulgated

CHAPTER VIII

REGISTRATION, LICENSING AND ACCREDITED CLIENTS

RULES FOR SECTION 59A OF THE ACT

Registration of persons participating in activities regulated by the Act

59A.00 The number reflected in brackets after the rule number refers to the subsection to which the rule relates.

59A.01 Definitions and application for registration

(a) For the purposes of these rules and any form to which these rules relate, unless the context otherwise indicates –

“customs and excise laws and procedures” includes –

- (i) any provision contemplated in the definition of “this Act” in the Customs and Excise Act, 1964 (Act 91 of 1964);
- (ii) any condition or obligation imposed, any process or procedure instituted or any manual or other directive issued, by the Commissioner or a Controller for the purpose of administering any activity regulated by the Act;

- (iii) any provision of any other law prohibiting or restricting or otherwise controlling the manufacture, use, importation, exportation, transit carriage, removal or other movement of goods administered under any provision of the Act;

“foreign principal” means according to the context a registered importer, registered exporter or licensed remover of goods in bond, not located in the Republic;

“located in the Republic” means, in the case of -

- (i) a natural person, a natural person ordinarily resident in the Republic at a specific physical address in the Republic; and
- (ii) a juristic person, a juristic entity –
 - (aa) which is incorporated, registered or recognised in terms of the laws of the Republic or of another country; and
 - (bb) which has a place of business at a specific physical address in the Republic;”

“person” includes –

- (i) any natural person or any insolvent or deceased estate;
- (ii) any juristic person incorporated in the Republic or a juristic person not incorporated in the Republic that has, or any other association of persons whether or not formed in the Republic that has, a place of business at a specific physical address in the Republic;
- (iii) any institution, including any scientific or educational institution, for the benefit of its members or the public that is established in the Republic and has a place of business at a specific physical address in the Republic;
- (iv) a partnership;
- (v) a trust;
- (vi) an organ of state;”

“rebate user” means any person who obtains any goods under rebate of duty in terms of any item of Schedule No. 3, 4 or 6;

“registered agent” means a person located in the Republic who is a nominated agent of a foreign principal and is registered as prescribed in these rules;”

“registrant” or “registered client” or “registered person” means any person registered under any provision of the Act;

“the Act” includes any provision of “this Act” as defined in the Customs and Excise Act, 1964 (Act 91 of 1964).

- (b) (i) Except as elsewhere specified in the Act in respect of any activity, application for registration must be made on the prescribed form DA 185 and the relevant annexure to the Commissioner or the Controller in whose control area the activity will be conducted and from whom the form is obtainable.
- (ii) The applicant must comply with all the requirements specified in form DA 185 and the relevant annexure, these rules, any other relevant rule and any condition or obligation imposed by the Commissioner.
- (iii) A foreign principal must-
 - (aa) apply on form DA 185 and the appropriate annexure for registration in respect of the activity for which registration is required; and
 - (bb) nominate a registered agent on form DA 185.D.
 - (cc) be represented by a registered agent in the performance of any function regulated by the Act.
- (iv) An applicant for registration as a registered agent must-
 - (aa) apply on form DA 185 and the appropriate annexure; and
 - (bb) before registration, furnish the security bond the Commissioner may require and specifying the obligations the Commissioner may determine.
- (v) A registered agent nominated by a foreign principal–
 - (aa) must act as agent on behalf of the foreign principal in the performance of any function regulated by the Act; and
 - (bb) may perform the functions of a licensed clearing agent on behalf of a foreign principal on complying with all the obligations imposed by the Act on such a registered agent.

- (c) (i) The Commissioner may at any time-
 - (aa) require that any registrant or class of registrants-
 - (A) complete and submit a form DA 185 within a period specified by the Commissioner for updating of existing information or to furnish additional information;
 - (B) who furnished security for any purpose in terms of the Act, submit particulars thereof in a format prescribed by the Commissioner; or
 - (bb) after reasonable notice to the clients concerned, amend existing registrations by allocating separate registration numbers for clients participating in customs activities and clients participating in excise activities.
- (ii) If the form DA 185 is not received within the period specified by the Commissioner the registrant will not be able to transact any customs or excise business under the existing registration.”
- (d) (i) All registrations referred to in General Note 2 of Schedule No. 6 will come into operation on 1 April 2006 and any person requiring such a registration, must apply on a DA 185 for registration in terms of the appropriate item of that Schedule.
- (ii) Subject to the exceptions specified in General Note 2 (a), (b) and (c) of Schedule No. 6 any registration in terms of any item of Schedule No. 6 existing on 31 March 2006 shall terminate on that date.

59A.02(1) Provisions in the Act and Schedules relating to registration

- (a) (i) The requirements specified in these rules apply in addition to any other requirements in respect of any registration prescribed under any provision of the Act.
- (ii) A separate registration is required for each type of activity in respect of which registration is required under any provision of the Act.

(b) Specific requirements in respect of certain applicants, activities, procedures or premises, as the case may be, are prescribed in form DA 185 and its annexures, specific application forms and the following sections and their rules:

- (i) section 37A(9), rules 37A.12 to 37A.15 – marked goods and other goods contemplated in the section;
- (ii) section 46A(6), rule 46A1.03 and forms DA 46A1.02 incorporated in Section A of Annexure DA 1854A2 and DA 46A1.03 incorporated in Section A of Annexure DA 185.4A4, respectively, exporter and manufacturer of goods to which AGOA relates;
- (iii) section 47B(5) – operator for a chargeable aircraft; section 47B(6) – agent of the operator,
- (iv) rule 49A.18(19)(20) – approved exporter form DA 49A.02 incorporated in Section B of Annexure DA 185.4A2;
- (v) section 75 – rules for section 75 and Notes to Schedules Nos. 3, 4, 5 and 6 and items specified therein in respect of rebates or refunds of duty.

59A.03(1) Persons who must and may apply for registration

(a)(i) Subject to the provisions of the Act in connection with the registration of an importer or exporter for a specific activity, no person may import goods into, or export goods from, the Republic unless that person, except a person who imports or exports goods in terms of the provisions of rule 15.01 –

(aa) is registered as an importer or exporter; and

(bb) if that person is a foreign principal, is represented by a registered agent.

(ii) Subject to any provision of the Act in which requirements for registration are specified, a person may apply for registration if such person is –

(aa) a natural person who is –

(A) a citizen or a permanent resident of the Republic or has a place of business at a specific physical address in the Republic; and

(B) at least 18 years old unless emancipated by court order;

(bb) a juristic person that has a place of business at a specific physical address in the Republic;

- (cc) the person having the effective management of an association of persons whether or not formed in the Republic that has a place of business at a specific physical address in the Republic;
 - (dd) if a partnership or a trust composed of individuals each of whom meets the qualifications required in item (aa);
 - (ee) in the case of –
 - (A) a deceased estate, the executor of the estate;
 - (B) an insolvent estate, the trustee;
 - (C) an organ of state, the official to whom the function in respect of the activity for which registration is required, is delegated;
 - (D) any institution, the person having the effective management of such institution.
- (iii) Registration code number 70707070 may be used only if the importer or exporter –
- (aa) (A) imports or exports goods of which the value required to be declared for each consignment is less than R50 000, subject to the limitations of three such consignments during any calendar year;
 - (B) declares those goods for home consumption (codes A11 and A12), temporary export (code A13) or export (codes H60 and H61);
 - (bb) is a natural person located in the Republic; and
 - (cc) reflects his or her identity number or taxpayer reference number in the field provided in the declaration form.
- (iv) The codes stated in brackets in paragraph (iii)(aa)(B) refer to the codes published on the SARS website as contemplated in rule 00.06.
- (b)(i) Before deciding whether to approve or refuse any application for registration as a registered agent the Commissioner must conduct investigations to–
- (aa) verify the statements made by the applicant in the application; and
 - (bb) ascertain any facts relating to the activities in respect of which the registration will operate, to the extent that the Commissioner may regard as being materially relevant for considering the application.
- (ii) The applicant must make available books, accounts and other documents and furnish fully the information necessary to conduct such an investigation.
- (c) A clearing agent or registered agent may not apply on behalf of any applicant.

- (d) The provisions of these rules apply *mutatis mutandis* to any container operator approved under section 96A.

59A.04(1) Information regarding contraventions and other matters to be furnished on application form

- (a) For the purposes of section 59A(1) and (2) and the *mutatis mutandis* application of the provisions of section 60(2), every person applying for registration shall indicate on form DA 185 whether during the preceding five years any person to whom these rules relate –
- (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition, obligation or other requirement imposed by the Commissioner;
 - (iii) has been convicted of any offence under the Act;
 - (iv) has been convicted of any offence involving dishonesty;
 - (v) has made any false or misleading statement in any material respect or omitted to state any material fact which was required to be stated in any application for registration or for any other purpose under the Act;
 - (vi) was insolvent or in liquidation, as the case may be.
- (b)
- (i) If the answer is “yes” to any question specified in paragraph (a), full details must be furnished with the application.
 - (ii) Any applicant may, where it is contended in respect of paragraph (a)(i) or (ii) that the contravention or failure was inadvertent, without fraudulent intent or gross negligence, include a submission to this effect with form DA 185.

59A.05(1) Information regarding contraventions and other matters to be furnished after submitting the application or after registration

- (a) Where any person to whom these rules relate, after an application for registration is submitted or after registration –
- (i) contravenes or fails to comply with the provisions of the Act;
 - (ii) fails to comply with any condition or obligation imposed by the Commissioner;
 - (iii) is convicted of any offence under the Act;

- (iv) is convicted of any offence involving dishonesty;
- (v) is sequestrated or liquidated; or
- (vi) no longer carries on the business for which the registration was issued, the Commissioner must be informed by such person of that fact within seven days of the occurrence of such event.

- (b) The provisions of rule 59A.04(1)(b)(ii) shall apply *mutatis mutandis* for the purposes of paragraph (a)(i) and (ii).

59A.06(1) Issue of a customs and excise client number

- (a) Whenever an application for registration is approved, a customs and excise client number will be allocated and the applicant advised in writing.
- (b) The customs and excise client number must be –
 - (i) quoted in all communications to the South African Revenue Service or any other organ of state and reflected on all prescribed documents for transacting customs and excise business;
 - (ii) reflected in the authorisation for any agent to transact the business to which the registration relates for production to the Commissioner or the Controller, as the case may be.

59A.07(2) Validity of registration and furnishing of security

- (a) Any registration shall be valid until the Commissioner –
 - (i) cancels it after receipt of a written request or it is found that the registrant no longer carries on the business for which the registration was issued;
 - (ii) cancels or suspends the registration as contemplated in section 59A(2).
- (b) Whenever any provision of the Act specifies that security must be furnished, the applicant shall, before registration, provide such security as the Commissioner may in each case determine.
- (c) Where any security is furnished in the form of a surety bond, such bond shall be subject to the provisions of rules 120.08 and 120.09.

59A.08(2) Controller to be advised of any changed particulars

- (a) Whenever any of the particulars furnished in any application for registration changes in any material way, the registered person shall advise the Controller within seven days of the occurrence of such event by submitting a form DA 185 and the relevant annexure reflecting the changed particulars.
- (b) For the purposes of section 59A(2), in any case where in the opinion of the Commissioner the security is in any manner compromised by such change, the form, nature or amount of such security shall be altered as the Commissioner may require.

59A.09(2) Keeping of books, accounts and documents

For the purposes of section 101, and notwithstanding anything to the contrary in any rule contained, every registered person must –

- (a) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which he or she is registered for a period of five years calculated from the end of the calendar year any such document was created, lodged or required for the purposes of any customs and excise procedure;
- (b) include in such books, accounts and documents any requirements prescribed in any provision of this Act in respect of the activity for which registration is required;
- (c) produce such books, accounts and documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with his or her transactions as the Commissioner may require.

59A.10(2) Sufficient knowledge

Any registration is issued subject to the condition that the registrant or at least one of the registrant's employees permanently employed at the premises where

or from where the business will be conducted must have sufficient knowledge of customs and excise laws and procedures to ensure that the activities to which the registration relates are conducted efficiently and in compliance with the provisions of such laws and procedures.

59A.11(2) *Pro forma* advice when registration is suspended or cancelled

The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the *pro forma* advice to be issued in respect of suspension or cancellation of a registration as contemplated in section 59A(2).

DA 185	-	Application form: Licensing/Registration of Customs and Excise Clients
DA 185.01	-	Registration of Importer
DA 185.02	-	Registration of Exporter
DA 185.03	-	Registration under Rebate (Schedules Nos. 3, 4 and 6)
DA 185.04	-	Registration for a Manufacturer under AGOA
DA 185.05	-	Registration of Special Manufacturing Warehouse MIDP (Rebate item 317.04, 317.06 and 317.07 (SVM))
DA 185.06	-	Licensing of customs and excise special manufacturing warehouse
DA 185.07	-	Licensing of customs and excise manufacturing warehouse
DA 185.08	-	Licensing of customs and excise storage warehouse
DA 185.09	-	Licensing of customs and excise special storage warehouse
DA 185.10	-	Licensing of Clearing Agent
DA 185.11	-	Licensing of Remover of Goods in Bond
DA 185A	-	Security Particulars

RULE FOR SECTION 60 OF THE ACT

Issuing and renewal of licences

60.00 The number reflected in brackets after the rule number refers to the subsection to which the rule relates

60.01(1) Definitions and application for licence

(a) For the purposes of these rules, unless the context otherwise indicates –

“customs and excise laws and procedures” includes –

- (i) any provision contemplated in the definition of “this Act” in the Customs and Excise Act, 1964 (Act 91 of 1964);
- (ii) any condition or obligation imposed, any process or procedure instituted or any manual or other directive issued, by the Commissioner or a Controller for the purpose of administering any activity regulated by the Act;
- (iii) any provision of any other law prohibiting or restricting or otherwise controlling the manufacture, use, importation, exportation, transit carriage, removal or other movement of goods administered under any provision of the Act;

“licensee” means any person licensed under any provision of the Act;

“person” includes –

- (i) any natural person or any insolvent or deceased estate;
- (ii) any juristic person incorporated in the Republic or a juristic person not incorporated in the Republic that has, or any other association of persons whether or not formed in the Republic that has, an established place of business in the Republic;
- (iii) a partnership; or
- (iv) a trust;

“the Act” includes any provision of this Act as defined in the Customs and Excise Act, 1964 (Act 91 of 1964).

- (b) (i) Any reference in these rules to a “licensee” or “applicant for a licence” shall be deemed to include a reference to any person contemplated in the definition of person.
- (ii) Any reference to customs and excise laws and procedures in any form to which these rules relate shall be deemed to be a reference to customs and excise laws and procedures defined in paragraph (a).

- (c) (i) From the date these rules are published form DA 185 and the relevant annexure must be completed by an applicant for a licence or renewal of a licence.
- (ii) For the purpose of amplifying and updating licence files, licensees who or which are not required to renew licences annually must complete and submit to the Commissioner form DA 185 and the applicable annexure, obtainable from Controllers or the Commissioner, as soon as reasonably possible after the date of publication of these rules.
- (d) Where an annexure to form DA 185 does not provide for an application for a licence required under the Act, application must be made on the existing form prescribed therefore until an annexure to form DA 185 in respect of such licence is published in the Schedule to the rules.
- (e) (i) Application for a licence or renewal of a licence on form DA 185 and the relevant annexure must be submitted to the Commissioner and if approved, the licence will be issued by the Controller on furnishing or security and payment of the prescribed licence fee.
- (ii) The applicant must comply with all the requirements specified in the form, these rules, any relevant section of the Act, the Notes to the item in Schedule No. 8 in which the licence is prescribed, any other rule and any condition or obligation imposed by the Commissioner.
- (iii) No part of any licence fee is refundable on cancellation of a licence.
- (f) A separate licence is required for each type of activity in respect of which a licence is prescribed in the Act.

60.02(1) Provisions of the Act relating to licensing and furnishing of security

- (a) The provisions in these rules apply generally to applicants for a licence and any licence issued under any provision of the Act.
- (b) Additional requirements in respect of an application for a licence or a licensee and premises where relevant are prescribed in the item of

Schedule No. 8 in which such licence is specified, in the application form DA 185 and the relevant annexure or in the following sections or their rules:

- (i) 19, 21, 27 and 61 (customs and excise warehouse licence);
- (ii) 36A (special customs and excise warehouse licence for goods liable to excise duty under Section B of Part 2 of Schedule No. 1);
- (iii) 62 (agricultural distiller licence);
- (iv) 63 (still licence);
- (v) 64 (manufacture of wine in a special customs and excise warehouse);
- (vi) 64A (container depot licence);
- (vii) 64B (clearing agent licence);
- (viii) 64C (licence to search wreck or search for wreck);
- (ix) 64D (remover of goods in bond licence).

(c) Any licence is issued subject to the relevant provisions of the Act, and the Notes to the item in Schedule No. 8 in which the licence is prescribed, these rules and any conditions which may be specified in such licence.

- (d)
- (i) Before any licence is issued, the applicant shall furnish such security as the Commissioner may require.
 - (ii) The Commissioner, may at any time require that the form, nature or amount of such security shall be altered or renewed.
 - (iii) Any security furnished in the form of a surety bond must be in the form prescribed and shall be subject to the provisions of rules 120.08 and 120.09.

- 60.03(2) (a) Subject to the provisions of the Act in which any requirement regarding licensing is specified, a person may apply for a licence if such person is –
- (i) a natural person who is –
 - (aa) a citizen or a permanent resident of the Republic or has a place of business at a specific physical address in the Republic; and
 - (bb) at least 18 years old unless emancipated by court order;
 - (ii) a juristic person that has a place of business at a specific physical address in the Republic;

- (iii) a partnership or a trust composed of individuals each of whom meets the qualifications required in subparagraph (i);
- (iv) the person having the effective management of any other association of persons whether or not formed in the Republic that has a place of business at a specific physical address in the Republic;
- (v) in the case of –
 - (aa) a deceased estate, the executor of the estate;
 - (bb) an insolvent estate, the trustee.

(b) A clearing agent or registered agent may not apply on behalf of any applicant.”

60.04(2) Information regarding contraventions and other matters to be furnished on application form

- (a) For the purposes of section 60(2) every person applying for a licence must indicate on form DA 185 whether during the preceding five years any person to whom these rules relate –
 - (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition, obligation or other requirement imposed by the Commissioner;
 - (iii) has been convicted of any offence under the Act;
 - (iv) has been convicted of any offence involving dishonesty;
 - (v) has made any false or misleading statement in any material respect or omitted to state any material fact which was required to be stated in any application for a new licence or renewal of a licence or for any other purpose under the Act; or
 - (vi) was insolvent or in liquidation, as the case may be.
- (b) If the answer is “yes” to any questions specified in paragraph (a), full details must be furnished with the application.
- (c) Any applicant may, where it is contended in respect of paragraph (a)(i) or (ii), that the contravention or failure was inadvertent, without fraudulent intent or gross negligence, include a submission to this effect with form DA 185.

60.05(2) Information regarding contraventions and other matters to be furnished after submitting the application or after licensing

(a) Where any person to whom these rules relate, after submitting an application to licence or renewal of a licence or after licensing –

- (i) contravenes or fails to comply with the provisions of the Act;
- (ii) fails to comply with any condition or obligation imposed by the Commissioner;
- (iii) is convicted of any offence under the Act;
- (iv) is convicted of any offence involving dishonesty;
- (v) is sequestrated or liquidated;
- (vi) no longer carries on the business for which the licence was issued;
- (vii) is no longer qualified according to the qualifications prescribed in the rules;

the Commissioner must be informed of that fact within seven days of the occurrence of such event.

(b) The provisions of rule 60.04(2)(c) shall apply *mutatis mutandis* for the purposes of paragraph (a)(i) and (ii).

60.06 Issue of a customs and excise client number

(a) Whenever an application for a licence is approved, a customs and excise client number will be allocated and the applicant advised in writing.

(b) The customs and excise client number must be –

- (i) quoted in all communications to the South African Revenue Service or any other organ of state and reflected on all prescribed documents for transacting customs and excise business;
- (ii) reflected in the authorisation for any agent to transact the business to which the licence relates for production to the Commissioner or the Controller, as the case may be.

60.07(2) Controller to be advised of any changed particulars

- (a) Whenever any of the particulars furnished in any application for a licence changes in any material way, the licensee shall advise the Controller within seven days of the occurrence of such event by submitting a form DA 185 and the relevant annexure reflecting the change particulars.
- (b) In any case where in the opinion of the Commissioner the security is in any manner compromised by such change, the form, nature or amount of such security shall be altered as the Commissioner may require.

60.08(2) Keeping of books, accounts and documents

- (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must –
 - (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (ii) include in such books, accounts and documents any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued;
 - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.
- (b) A licence is issued subject to the condition that the licensee or at least one of the licensee's employees permanently employed at the premises where or from where the business will be conducted must have sufficient knowledge of customs and excise laws and procedures to ensure that the activities to which the licence relates are conducted efficiently and in compliance with the provisions of such laws and procedures.

Updating of information and furnishing of additional information

60.10(1) (a) The Commissioner may at any time-

- (i) require any licensee or class of licensees—
 - (aa) to complete and submit a form DA 185 within a period specified by the Commissioner for updating of existing information or to furnish additional information;
 - (bb) who furnished security for any purpose in terms of the Act, to submit particulars thereof in a format prescribed by the Commissioner; or
 - (ii) after reasonable notice to the licensees concerned, amend existing licensee numbers by allocating separate numbers in respect of clients licensed for participating in excise activities and those licensed for participating in other activities in terms of any provision of the Act.
- (b) If the form DA 185 is not received within the period specified by the Commissioner the licensee will not be able to transact any customs or excise business under the existing licence.

PRO FORMA ADVICE – Rule 60.09(2)

Dear

RE: SUSPENSION OF LICENCE OR CANCELLATION OF LICENCE

After due and proper consideration of all the facts and circumstances it has been decided to suspend / cancel the licence, issued under the Customs and Excise Act, 1964 (the Act), with effect from (21 days notice in terms of the proviso to section 60(2)(b), except where an amount is unpaid for a period exceeding 30 days).

The reasons for the suspension / cancellation of the licence are the following:

NOTE: Here set out succinctly the reasons for example,

- (a) You were convicted of an offence involving dishonesty.
- (b) You failed to comply with the conditions of your licence.

etc.

You are hereby invited to make such representations setting out such facts and circumstances as to why you contend the licence should not be suspended / cancelled within the period mentioned herein.

You are advised that you are entitled to have the decision reviewed by the Commissioner or the High Court.

Yours faithfully

60.10(2) Licencing of removers of goods in bond: annexure DA 185.11 to form DA 185

The licencing of removers of goods in bond in respect of which annexure DA 185.11 is included in the amendment of the Schedule to the rules published on 1 March 2002 will commence when the rules for section 64D are published in the *Gazette*.

RULE FOR SECTION 61 OF THE ACT

Allocation of numbers to customs and excise warehouses

- 60.01 Any warehouse number allocated shall be reflected on all bills of entry, certificates, invoices or other documents which require such number.

RULE FOR SECTION 62 OF THE ACT

Issuing and renewal of licences to agricultural distillers

- 62.01 Application by an agricultural distiller for a licence to keep a still or to distil, shall be made to the Controller on the prescribed form.

RULES FOR SECTION 63 OF THE ACT

Special provisions regarding stills and still makers

- 63.01 Every still maker shall immediately on importation or manufacture by him of any still obtain from the Controller a registration number which he shall imprint or emboss legibly, together with his name and address and the capacity of the still, on the column or columns of every such still if it is a patent continuous still, and on both the shoulder and helm in the case of a pot still.
- 63.02 No person shall keep any still without a licence unless such still is used solely for distilling water or any other purpose for which a licence is not necessary.
- 63.03 No person may sell, remove or otherwise dispose of a still unless the approval of the Controller has been obtained.
- 63.04 Whenever any still which has not been marked in accordance with rule 63.01 is received by a still maker for the purpose of repair or otherwise, he shall immediately advise the Controller.

- 63.05 No person shall obliterate or alter the prescribed markings on any still without the authority of the Controller or have in his possession or under his control any still without such markings.
- 63.06 The provisions of rules 27.10 and 27.11 shall *mutatis mutandis* apply to stills manufactured by a still maker and for that purpose any reference to a licensee of a customs and excise manufacturing warehouse and to excisable goods shall be deemed to be a reference to a still maker and stills respectively.
- 63.07 When an agricultural distiller ceases to operate as an agricultural distiller or ceases to be an agricultural distiller in terms of the provisions of the Act, he shall, in addition to any notification under any provision of the rules regarding any spirits manufactured by him, forthwith notify the Controller of the disposal or intended disposal of any still in his possession.

RULE FOR SECTION 64 OF THE ACT

Special warehouses for the manufacture of wine

- 64.01 Application for a licence to manufacture wine in a special customs and excise warehouse shall be made to the Controller on the prescribed form.

RULE FOR SECTION 64A OF THE ACT

Application for a licence to operate a container depot

- 64A.01 Application for a licence to operate a container depot shall be made to the Controller on the prescribed form.

RULE FOR SECTION 64B OF THE ACT

- 64B.00 The number reflected in brackets after the rule number refers to the subsection to which the rule relates.
- 64B.01(1,2,3,4) Application for a licence and the conduct of business

- (a) (i) The provisions of section 60 and the rules therefore, including the definitions, shall apply *mutatis mutandis* to the provisions in respect of a clearing agent's licence specified in section 64B and these rules and any applicant for such a licence must –
 - (aa) apply on form DA 185 and the relevant annexure and comply with all the requirements specified therein and in the rules and any additional requirements that may be determined by the Commissioner;
 - (bb) submit with the application a completed agreement in accordance with the *pro forma* agreement specified in these rules;
 - (cc) before a licence is issued, furnish the security the Commissioner may require.
- (ii) Where any security is furnished in the form of a surety bond, such bond shall be subject to the provisions of rules 120.08 and 120.09.
- (b) A licence issued under this paragraph authorises the transaction of business as a clearing agent in the control area of the Controller who issued and any Controllers listed on, the licence, only if at least one person at the business address of the clearing agent, for the duration of the licence –
 - (i) transacts business as a clearing agent at such address on a full-time basis;
 - (ii) meets the requirements of sufficient knowledge of customs and excise laws and procedures as contemplated in paragraph (c).
- (c) (i) Until such time as the Commissioner prescribes a qualification as contemplated in section 64B(2)(c), sufficient knowledge of customs and excise laws and procedures for the purposes of rule 64B.01(1, 2, 3, 4)(b) is established at any time during the validity of the licence where the clearing agent, if a natural person, or if any other person, any director or member, a person having the management of any association of persons or a partner or a trustee, as the case may be, or any permanent employee of such clearing agent, has conducted the business of a clearing agent or has been employed in such business, as the case may be, for at least five

years or such shorter period as the Commissioner on good cause shown, may allow.

- (ii) The names of the persons complying with the requirements of sufficient knowledge in the control area of each Controller where the clearing agent conducts business must be furnished with any application for, or renewal of, a licence.
- (d) Every licensed clearing agent shall –
- (i) at the premises where the business is transacted –
 - (aa) prominently display a sign bearing the business nature, registered and trading names of the business; and
 - (bb) a copy of the licence;
 - (ii) immediately notify the Controller of any change –
 - (aa) in the address of the business;
 - (bb) in the legal status of the business;
 - (cc) in the individuals who meet the knowledge requirement and who are employed full-time by the licensee at the control area in respect of which the licence was issued.
- (e) The Commissioner or a Controller may, on application by the licensee and on furnishing of such security as the Commissioner may require, endorse a licence to include the control area of a Controller not stated on the licence when it was issued.
- (f) (i) In the case of a clearing agent who at his or her business address complies with paragraphs (b) and (c), the requirements of those paragraphs shall be deemed to have been met for transacting business at any customs office if that agent –
- (aa) is a registered user for purposes of electronic communication as contemplated in section 101A;
 - (bb) generates, stores, transmits and receives electronic messages at that address for the clearance of goods at any customs office; and
 - (cc) for the purposes of performing any function in connection with the goods at the customs office to which such a message is transmitted has an employee or any authorised representative in attendance at that customs office.

- (ii) Any employee or representative contemplated in subparagraph (i), must produce written authority to act on behalf of the licensed clearing agent who transmitted such message to the Controller.

64B.02(2, 3, 4) Keeping of books, accounts and documents

- (a) The rules for section 101 concerning the keeping of books, accounts and documents shall apply *mutatis mutandis*.
- (b) In addition to paragraph (a) clearing agents must keep –
 - (i) records and books of account and banking records indicating all financial transactions made while transacting any business as a licensed clearing agent; and
 - (ii) copies of all correspondence, bills, accounts, statements and other documents received or prepared by a licensed clearing agent that relate to the transaction of business as a licensed clearing agent.
- (c) Every licensed clearing agent shall retain the records specified in paragraphs (a) and (b), notwithstanding any other provision in any rule contained, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure.

64B.03(6) Clearing agent must furnish documents and account for payments to the principal

Every licensed clearing agent shall –

- (a) furnish his or her principal in respect of each transaction under the Act made on behalf of the principal with a copy of the customs documents, bearing the official customs stamps, or when section 101A comes into operation, a copy of the information transmitted or received by electronic communication as provided in that section, to and from the Commissioner, a Controller or any officer; and
- (b) promptly account to the said principal for payments –

- (i) received in favour of the said principal from the Commissioner, a Controller or any officer;
- (ii) received from the said principal in excess of the duties and other charges due to respect of the principal's business with the Commissioner, a Controller or any officer; and
- (iii) made to the Commissioner, the Controller or any officer in respect of the business of the principal.

64B.04(6) Disclosure of name of principal

Whenever a clearing agent transacts any customs and excise business the principal, as defined in section 99(2), on whose behalf such business is transacted shall be disclosed whether such principal is a person inside or outside the Republic.

64B.05(6) Agreement to be furnished with application for a licence

- (a)
 - (i) A *pro forma* agreement is specified in this rule.
 - (ii) Any expression in the *pro forma* agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act as defined in the rules for section 60 or in these rules.
- (b) The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the *pro forma* advice to be issued in respect of suspension or cancellation of a licence.

CUSTOMS AND EXCISE ACT, 1964 (ACT 91 OF 1964)
(Section 64B and its rules)

LICENSING OF CLEARING AGENTS
Pro Forma Agreement between the Clearing Agent
and the Commissioner

Annexure A

As _____
(Full name of applicant – hereinafter referred to as “licensee”)

of _____
(Physical address of applicant – not a P O Box)

herein represented by

_____	_____
Full Name	Capacity

* duly authorised thereto by virtue of –

- (a) *a resolution passed at a meeting of the Board of Directors held at _____
on _____ day of _____; or
- (b) express consent in writing of all the partners of a partnership/*members of the close
corporation/*trustees of the trust; or
- (c) *being a person having the management of any other association of persons referred to
in rule 60.03(2)(a)(iv).

Has applied to be licensed as a clearing agent; and

(*Delete whichever is not applicable)

as the Commissioner has considered the application and decided to issue a licence subject to compliance with the terms and conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1.
 - (a) Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner and to maintain such security until such time as the Commissioner is, on good cause shown, satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
 - (b) Licensee agrees and undertakes that the security agreed on in paragraph 1(a) shall only be utilised as security for the fulfillment of the obligations of licensee and that it shall not under any circumstances be utilised by any other clearing agent.
2. Licensee acknowledges as a pre-condition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –
 - (a) understands that its rights to conduct the business of a clearing agent is subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be imposed by the Commissioner;
 - (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and the provisions of this agreement.
 - (c)
 - (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions conducted for any principal as well as the banking accounts and records relating to the business conducted under the licence.

- (ii) Licensee hereby agrees to and authorises the inspection of such books and documents and business banking accounts as the Commissioner and the delegated officers may require.
- (d) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee of the licensee –
- (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition or requirement of this agreement;
 - (iii) is convicted of any offence under the Act;
 - (iv) is convicted of any offence involving dishonesty;
 - (v) is sequestered or liquidated;
 - (vi) fails to comply with the qualification requirement set out in the rules; or
 - (vii) ceases to carry on the business of a clearing agent in the area of control of the Controller where he is licensed,
- and licensee acknowledges the right to the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.
- (e) Licensee in addition undertakes:
- (i) to keep on the business premises books, accounts, documents and other records relating to the transactions of the business comprising, where applicable, at least –
 - (aa) in the case of imported goods, copies of the relative import bills of entry, transport documents, suppliers invoices, packing lists, bunk stamped invoices, payment advices and other documents required in terms of section 39 of the Act;
 - (bb) in the case of excisable and fuel levy goods not being distillate fuel referred to in subparagraph (cc), books, accounts and documents as the Controller may require;
 - (cc) in the case of distillate fuel on which a refund of fuel levy is granted in terms of item 670.04 of Schedule No. 6, the documents specified in Note 6 to item 670.04.03;
 - (dd) in the case of exported goods, copies of the relative export bills of entry, invoices and other transport documents;

- (ee) in the case of goods subject to rules of origin such records as are prescribed in the rules for sections 46, 46A and 49;
 - (ff) every written instruction given for purposes of the Act by any principal;
 - (ff) books, accounts and documents relating to the removal of goods in bond; and
 - (gg) to keep any other books, accounts, documents and other records which may be required in terms of any rule relating to any business transacted as a clearing agent under the provisions of the Act;
- (ii) notwithstanding any other provisions in the Act or the rules thereto, to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required in respect of any customs and excise procedure;
- (iii) to answer and to ensure that any employee answers fully and truthfully any questions of the Commissioner or an officer relating to its business or that of its principal required to be answered for purposes of the Act;
- (iv) to render such returns or submit such particulars in connection with its transaction and the goods to which the transactions relate as the Commissioner or his delegated officer may require;
- (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure that –
 - (aa) the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed in accordance with the instructions of its principal and comply with the provisions of the Act;
 - (bb) every person in the employ of the licensee and engaged in the business of clearing agent is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act;

(cc) the Commissioner is advised as soon as it may come to the knowledge of the licensee or any person in the employ of the licensee that any principal of the licensee has failed to comply with the provisions of the Act and of any steps the licensee took to prevent such non-compliance.

3. Licensee is aware of the obligation at all times to disclose the name, address and such other particulars as may be required by the Act of the principal on whose behalf licensee transacts customs and excise business and accepts that where such particulars are not so disclosed in circumstances where it is required to be disclosed, licensee shall be liable for the fulfillment of the obligations imposed on such principal as contemplated in section 99(2).
4. Licensee is aware of the prohibition to utilise any security given for purposes of the licence as security for any other clearing agent and specifically undertakes to institute such measures as may be necessary to ensure compliance with this requirement.
5. Licensee understands and accepts –
 - (i) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such licence;
 - (ii) the condition that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be, transacting the customs and excise related clearing agent business with clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise laws and procedures to render a valuable service to such clients.
6. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.
7. (a) The licensee chooses *domicilium citandi et executandi* at:

(b) The Commissioner chooses *domicilium citandi et executandi* at:

8. Thus done and signed at: _____ on this

Licensee

Witness

Thus done and signed at: _____ on this _____

for and on behalf of the Commissioner

Witness

RULES FOR SECTION 64C OF THE ACT

Licence to search wreck or to search for wreck

64C.01 Application for a licence to search wreck or to search for wreck shall be made to the nearest Controller on the prescribed form.

64C.02 Any licence issued to search wreck or search for wreck shall –

- (a) not be transferable;
- (b) expire on the 31st day of December unless it is renewed on or before such date;
- (c) be subject to the rights of any other person to whom a similar licence has been or may be issued;
- (d) not limit the holder of such licence to any particular wreck or confine his searching activities to any particular section of the coast;

- (e) only cover wrecks which have been abandoned;
- (f) preclude any licensee from working wrecks where other licensed parties are still exercising their salvage rights. The obligation to ascertain whether a wreck has been abandoned or the rights of such parties will be infringed by working a wreck shall rest with the licensee;
- (g) be subject to such general or special conditions, including conditions relating to payment of duty, as may be specified in any such licence; and
- (h) be subject thereto that the licensee may not disturb or remove any wreck older than 50 years without a permit from the National Monuments Council.

64C.03 Any application for renewal of an existing licence shall be made before expiry thereof and shall include a full report on activities during the current year and details of anticipated activities during the following year.

64C.04 Unless searching operations are commenced three months from the date of issue of the licence or if the licensee fails to comply with any of the conditions stated on such licence the licence may be cancelled.

RULES FOR SECTION 64D OF THE ACT

Licensing of remover of goods in bond

64D.01(1, 3) Obligation to licence and application for a licence.

- (a) The number reflected in brackets after the rule number refers to the subsection to which the rule relates.
- (b)
 - (i) These rules prescribe requirements in respect of the carriage by road of goods referred to in rule 64D.05(1) to a destination within or outside the Republic.
 - (ii) Except as otherwise provided in these rules, every carrier that transports such goods –
 - (aa) must licence as a remover of goods in bond;

- (bb) may only transport such goods by means of transport approved by the Controller.
 - (iii) The licence is prescribed in Schedule No. 8 of the Act.
- (c) A person applying for a licence or renewal of a licence as a remover of goods in bond must –
- (i) apply on form DA 185 and the relevant annexure and comply with all the requirements specified therein, in section 64D and these rules and any additional requirements that may be determined by the Commissioner;
 - (ii) except in the case of a foreign principal, submit with the application the completed agreement in accordance with the pro forma agreement specified in these rules;
 - (iii) before a licence is issued furnish the security the Commissioner may require.
- (d) A foreign principal must-
- (i) apply on form DA 185 and the appropriate annexure for licensing in respect of the activity for which licensing is required;
 - (ii) nominate a registered agent on form DA 185.D; and
 - (iii) be represented by a registered agent in the performance of any function regulated by the Act.

64D.02(1) Provisions applicable and date of operation

- (a) In addition to the provisions of section 64D and these rules the provisions of –
- (i) section 18 and 18A and the rules therefor;
 - (ii) section 20(4) and the rules for section 20;
 - (iii) section 60 and the rules therefor including the definitions in such rules; and
 - (iv) the rules numbered 120A, where applicable,
- shall, unless otherwise provided in section 64D and these rules, apply *mutatis mutandis* to a licensed remover of goods in bond and any goods carried by such remover.

- (b) The provisions in section 18 and 18A, the rules therefor and these rules requiring and regulating the removal or carriage of goods by a licensed remover of goods in bond shall operate from 1 November 2002.

64D.03(1) Definitions

- (a) For the purpose of these rules, and any form, agreement or bond to which these rules relate, unless the context otherwise indicates –

“bonded goods” means goods contemplated in the definition of consignor and specified in rules 64D.04(1) and 64D.05(4);

“carrier” means the person actually transporting goods or in charge of or responsible for the operation of the respective means of transport,

“consignee” means the person at any address in the Republic or outside the Republic to whom goods consigned by a consignor are carried by a licensed remover of goods in bond;

“consignor” includes –

- (i) (aa) any importer, licensee of a customs and excise warehouse who enters any goods for storage or manufacture in a customs and excise warehouse of for use under rebate of duty and removes goods to such warehouse or the rebate user; or
(bb) any importer, licensee or exporter or other principal who enters any imported goods or any goods manufactured or stored in a licensed customs and excise warehouse for removal in bond or for export as contemplated in section 18, 18A or 20(4)
- (ii) any clearing agent for any such importer, licensee, exporter or other principal who –
(aa) enters such goods for removal in bond or for export; or
(bb) contracts any carrier to transport such goods to a consignee within or outside the Republic
- (iii) any clearing agent, importer, exporter, licensee or IDZ operator contemplated in the rules for section 21A, who provides security for any carrier;

- (iv) any clearing agent who acts on behalf of any principal outside the Republic in respect of goods destined for such principal or where goods brought into the Republic by any carrier from any country in Africa are removed in bond to any destination in the Republic for home consumption or for removal in bond or for export to any destination outside the Republic;
- (v) any registered agent nominated by and acting on behalf of a foreign principal as contemplated in the rules for section 59A;

“customs office of commencement” means any customs office where operations to which these rules relate, begin;

“customs office of destination” means any customs office within or outside the Republic where the operations to which these rules relate, end;

“customs office of exit” means any customs office which, even if not situated on the borders of the Republic and any other country, is the last point of customs control before crossing the border;

“heavy or bulky goods” means any heavy or bulky object which because of its weight, size or nature is not normally carried in a closed vehicle or closed container

“means of transport” includes –

- (i) any power driven road vehicle and any trailer or semi-trailer designed to be coupled thereto;
- (ii) any combination of vehicles which means coupled vehicles which travel on the road as a unit;
- (iii) any container which in addition to the definition in terms of section 1(3) includes an article of transport equipment (such as a liftvan, movable tank or other similar structure);
 - (aa) fully or partially enclosed to constitute a compartment intended for containing goods and capable of being sealed;
 - (bb) of a durable nature intended for repeated use;

- (cc) specifically designed for the carriage of goods by one or more modes of transport without intermediate unloading and reloading of its contents;
- (dd) fitted with devices for easy handling, particularly for its transfer from one mode of transport to another;
- (ee) designed to be easy to fill and to empty; and
- (ff) having an internal volume of at least one cubic metre.

“removal in bond” includes rewarehousing where goods in a customs and excise warehouse are removed to another such warehouse;

- (b) “demountable bodies” are to be treated as containers and means a load compartment which has no means of locomotion and which is designed in particular to be transported upon a road vehicle the chassis of which together with the underframing of the body is especially adopted for this purposes. It covers also a swap-body which is a load compartment designed especially for combined road and rail transport.
- (c) (i) Any reference in these rules to “foreign principal”, “located in the Republic”, and “registered agent”, shall, with the necessary changes, have the meaning assigned thereto in rule 59A.01
- (ii) Unless the context otherwise indicates, any reference in these rules to “licensed remover of goods in bond”, “licensee” or “remover of goods in bond” includes a licensed remover of goods in bond contemplated in section 64D, whether or not located in the Republic.

64D.04(1) Exemptions from the removal of goods by a licenced remover of goods in bond

For the purposes of section 64D(1), goods in bond or for export are not required to be carried by a licensed remover of goods in bond where –

- (a) any goods were landed from a ship or aircraft at a place in the Republic to which such goods were not consigned and the master of the ship or the pilot of the aircraft, removes such goods in bond to the place to which they were consigned as contemplated in section 18(1)(b);

- (b) a container operator removes in bond any container to a container terminal or a container depot to which it was consigned as contemplated in section 18(1)(d);
- (c) the pilot of any aircraft removes in bond goods landed from any aircraft at a place in the Republic for which an air cargo transfer manifest has been completed to their place of entry in the Republic as contemplated in section 18(1)(e);
- (d) a licensee of any premises, including any customs and excise warehouse licensed under any provision of this Act using own transport –
 - (i) removes any imported goods landed in the Republic to such premises;
 - (ii) removes goods in bond to and from such premises to another such premises within the Republic or in any other country within the common customs area or for export by train, ship or aircraft (including ship or aircraft stores);
 - (iii) removes any goods entered under rebate of duty on any prescribed form in terms of any item or Note of Schedule No. 6 for delivery to a rebate user;
- (e) a licensee of a customs and excise storage warehouse who removes in bond or exports a second-hand road vehicle as contemplated in rule 18.15 and 18A.10, respectively;
- (f) notwithstanding anything to the contrary in these rules contained, the provisions thereof shall not apply to any goods entered under rebate of duty in terms of the provisions of Schedule No. 3 or 4;
- (g) any goods entered under rebate of duty on a prescribed form in terms of any item of Schedule No. 6 delivered to a registered rebate user at the premises of the licensee of the customs and excise warehouse from which such goods are supplied;
- (h) in respect of a CCA contemplated in the rules for section 21A, goods are removed from an enterprise in the CCA to another such enterprise or to the IDZ operator within the same CCA;
- (i) notwithstanding the exemptions specified in these rules, the provisions thereof shall not be construed as prohibiting the removal or carriage of any goods to which the Act relate by a licensed remover of goods in bond on compliance with the provisions of section 64D, these rules and any other provisions of the Act regulating the removal or carriage of the goods

concerned as if the goods must be carried or removed by such remover as contemplated in rule 64D.05(4).

64D.05(4) Goods that must be carried by a licensed remover of goods in bond.

Goods must be carried by a licensed remover of goods in bond where –

- (a) the goods are those contemplated in section 18 or 18A and are –
 - (i) imported goods landed in the Republic or retained on any road vehicle entering the Republic which are entered for removal in bond and carried to any destination within the Republic, another country in the common customs area or in a country outside the common customs area;
 - (ii) goods in a customs and excise warehouse entered for removal in bond and carried to any such warehouse within the Republic or another country in the common customs area;
 - (iii) goods in a customs and excise warehouse entered for export and carried to any destination beyond the borders of the common customs area or to any appointed place for export by rail, ship or aircraft (including ship and aircraft stores);
- (b) except as provided for in rule 64D.04(1)(f) and (h), the goods are entered on any prescribed form in terms of any item or Note of Schedule No. 6 for delivery to a rebate user;
- (c) the goods are those contemplated in the rules for section 19A and are removed by road in terms of any procedure referred to in paragraph (a) or prescribed in the said rules for section 19A, in the case of –
 - (i) beer and spirits with effect from 26 February 2003;
 - (ii) fuel levy goods with effect from 2 April 2003;
- (d) the goods are imported goods contemplated in rule 64D.04(1)(f)(i) and are removed by road to any such licensed premises otherwise than by a licensee using own transport.
- (e) the goods are supplied at the zero rate in terms of section 11(1)(a)(ii) read with Part Two - Section B of the regulation as contemplated in

paragraph (d) of the definition of “exported” in section 1(1) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

64D.06(4) Technical specifications for, and approval of, means of transport

- (a) for the purposes of section 64D(4)(a), the means of transport used in the removal or carriage of goods by a licensed remover of goods in bond shall conform to the technical specifications specified in paragraph (b) of this rule.
- (b)
 - (i) The means of transport must be constructed and equipped in such a manner that –
 - (aa) customs seals can be simply and effectively affixed thereto;
 - (bb) no goods can be removed from or introduced into the sealed part of the means of transport without obvious damage to it or without breaking the seals; and
 - (cc) they contain no concealed spaces where goods may be hidden.
 - (ii) The means of transport shall be so constructed that the spaces, in the form of compartments, receptacles or other recesses, which are capable of holding goods, are readily accessible for customs inspection.
 - (iii) Should any empty spaces be formed by the different layers of the sides, floor and roof of the means of transport, the inside surface shall be firmly fixed, solid, unbroken and incapable of being dismantled without leaving obvious traces.
 - (iv) Openings made in the floor for technical purposes, such as lubrication, maintenance and filling of the sand-box, shall be allowed only on condition that they are fitted with a cover capable of being fixed in such a way as to render the loading compartment inaccessible from the outside.
 - (v) Doors and all other closing systems of the means of transport shall be fitted with a device, which shall permit simple and effective customs sealing. This device shall either be secured by at least two bolts, riveted or welded to the nuts on the inside.
 - (vi) Hinges shall be so made and fitted that doors and other closing systems cannot be lifted off the hinge-pins, once shut, the screws,

bolts, hinge-pins and other fasteners shall be welded to the outer parts of the hinges. These requirements may be waived, however, where the doors and other closing systems have a locking device inaccessible from the outside which, once it is applied, prevents the doors from being lifted off the hinge-pins.

- (vii) Doors shall be so constructed as to cover all interstices and ensure complete and effective closure.
 - (viii) The means of transport shall be provided with a satisfactory device for protecting the customs seal, or shall be so constructed that the customs seal is adequately protected.
 - (ix) The foregoing conditions shall also apply to insulated vehicles, refrigerator vehicles, tank vehicles and furniture vehicles in so far as they are not incompatible to fulfil in accordance with their use.
 - (x) The flanges (filler caps), drain cocks and manholes of tank wagons shall be so constructed as to allow simple and effective customs sealing.
 - (xi) Folding or collapsible containers are subject to the same conditions as non-folding or non-collapsible containers, provided that the locking device enabling them to be folded or collapsed allow customs sealing and that no part of such container can be moved without breaking the seals.
- (c) The Controller may at any reasonable time require from any remover of goods in bond, licensed in accordance with these provisions, to submit any means of transport, used by such licensee in the removal or carriage of such goods, for inspection in order to verify whether such means of transport comply with the requirement of the Act and these rules.
- (d)
- (i) Any remover of goods in bond may request the Controller to approve the means of transport used by such remover as contemplated in these rules.
 - (ii) Where examination for approval is required at any time other than the official working hours or at any place other than the office of the Controller, extra attendance at the prescribe rate shall be payable.
- (e)
- (i) The Controller may upon the approval of any means of transport issue a certificate of approval of means of transport, form DA 188.

- (ii) The certificate must accompany the means of transport.
- (iii) If in respect of any means of transport for which a certificate is issued –
 - (aa) ownership is change;
 - (bb) it is no longer used for the carriage of bonded goods;
 - (cc) there is any material change in any essential particulars of the means of transport,the certificate shall no longer be valid and must be returned to the Controller and the list referred to in rule 64D.15(9)(a)(i)(aa) appropriately amended.

(f) The Controller may, if he or she is not satisfied that the means of transport complies with the requirements in these rules, refuse carriage of any goods specified in rule 64D.05(4) by any licensed remover of goods in bond.

(g) The Controller shall not allow the transport of passengers in any means of transport unless he is satisfied that such passengers and their baggage is carried in a part of the means of transport which is adequately sealed off from that which carries any goods removed in bond.

64D.07(4) Transit plate

No paragraph (deleted)

64D.08(4) Road manifest

- (a) A Customs road freight manifest, form DA 187, shall be used in respect of the carriage of any bonded goods and attached to the bill of entry for removal in bond or for export, as the case may be.
- (b) Original of the manifest and a copy of the bill of entry must accompany the driver of the means of transport and one copy of each must be delivered to the Controller at the place of exit.
- (c) The provisions of rule 64D.19(b) shall apply *mutatis mutandis* where the manifest and bill of entry do not accompany the driver or the copies are not delivered to the Controller at the place of exit.

64D.09(4) Carriage of unsealed goods

- (a) Where it is not possible to remove or carry goods which may include heavy or bulky goods, under sealed conditions the Controller may authorise the removal of such goods in unsealed means of transport subject to conditions and procedures prescribed in the Act and that the Controller deems reasonable for the purpose of ensuring compliance with requirements for bonded goods, which may include:
- (i) additional security bonds;
 - (ii) full examination of the goods and recording of the results at the time of examination on the customs and freight manifest, form DA 187, as prepared by the licensed remover of goods in bond;
 - (iii) means and method of sealing, fastening and securing;
 - (iv) a precise description of the goods by reference to samples, plans, sketches, photographic or similar means to be attached to the original and one copy of form DA 187;
 - (v) prescribed entry and exit points, routes and time limits; and
 - (vi) prescribed proof that the goods concerned were duly entered for customs purposes at the place of destination.
- (b) Where such goods are so examined, the original of the road manifest, form DA 187, and a copy of the bill of entry must accompany the driver of the means of transport and one copy of each retained by the licensed remover of goods in bond and by the Controller at the office of commencement for record purposes.

64D.10(5) Security and bonds for security

- (a) Every licensed remover of goods in bond located in the Republic or a registered agent shall, in respect of each consignment of bonded goods, provide security as determined by the Commissioner.
- (b) Such security –
- (i) may be in the form of a continuous covering bond;
 - (ii) may be amended from time to time by the provision of addendums to the bond; and

- (iii) shall remain in full force and effect in respect of any bill of entry relating to the goods carried by such remover until the goods are delivered at their destination or otherwise accounted for as required by the provisions of the Act and any rule relating to such bill of entry and the carriage of such goods; and
 - (iv) may, subject to rule 64D 11, be provided by a consignor.
- (c) Rules 120.08 and 120.09 shall *mutatis mutandis* apply to these provisions.
- (d) (i) Whenever any particulars regarding the legal status or address of the remover in bond whose liabilities are secured under the security provided change in any manner whatsoever, such remover shall immediately –
- (aa) advise the Controller;
 - (bb) provide such addendums to the Controller as may be required;
 - (cc) substitute the security where appropriate;
 - (dd) comply with such requirements and directions as the Controller may issue in respect of security.

64D.11(5) Provision of security by a consignor

- (a) A consignor may provide security for any bonded goods transported by any road vehicle.
- (b) Any consignor who intends furnishing security in the form of a bond must furnish such bond in accordance with the *pro forma* bond prescribed in these rules.
- (c) The consignor must furnish on his or her own letter-headed paper authorisation signed by him or her or his or her duly authorised representative that the security bond may be utilised as security for the consignment specified in the authorisation which must state –
 - (i) particulars of the bond including the amount thereof;
 - (ii) whether the bond is given in the capacity of clearing agent, importer, exporter licensee or other principal;
 - (iii) a draft copy of the bill of entry;

- (iv) a description of the goods;
- (v) the duty to be secured; and
- (vi) container(s), number(s), seal number(s), number of packages in each container or the number of packages if not containerised goods.

64D.12(6) Liability for duty

- (a) For the purposes of section 64D(6), the provisions of section 18(2) and (3) in the case of goods entered for removal in bond or section 18A(1) and (2) in the case of goods entered for export from a customs and excise warehouse shall *mutatis mutandis* apply in respect of the liability, and the termination of liability, for duty, of a licensed remover of goods in bond that removes or carries such goods under the circumstances specified in those sections, their rules and the rules for this section.
- (b) Unless proof has been obtained in an improper or fraudulent manner, the liability of the licensed remover of goods in bond shall cease –
 - (i) in the case of goods contemplated of section 18(3)(a), when it is proved that the goods have been received at the destination and duly entered at a place of entry in the Republic or any other country in the common customs area to which they were removed in terms of the removal in bond bill of entry;
 - (ii) in the case of goods contemplated in section 18(3)(b) or 18A(1) and (2) that are removed in bond or exported, as the case may be, to any country in Africa, outside the common customs area when it is proved that the goods have been received in such country at the customs office of destination;
 - (iii) in the case of goods exported by means of any ship or aircraft when it is proved that the goods have been loaded in such ship or aircraft;
 - (iv) in the case of goods carried by rail, when the carrier confirms that the goods were received in the country of destination; and
 - (v) in the case of goods entered under rebate of duty for delivery to a rebate user, when such user duly acknowledges receipt of such goods.

64D.13(9) Carriage of spirituous beverages, wines, beer, cigarettes, petrol and distillate fuel and unmarked kerosene

- (a) Except that the provisional payment referred to in rule 18A.08(a) is not required in the case of a licensed remover of goods in bond who has given adequate security, the provisions of rule 18A.08 shall apply *mutatis mutandis* in respect of the removal in bond or carriage for export of any imported or locally produced spirituous beverages, wines, beer, and cigarettes and the consolidation of consignments when such goods are carried by road by a licensed remover of goods in bond to any country in Africa, including any other country in the common customs area.
- (b) The provisions of rule 18A.09 shall apply *mutatis mutandis* when any petrol, distillate fuel or any unmarked kerosene are carried by road by a licensed remover of goods in bond to any country in Africa, including any other country in the common customs area.

64D.14(9) Controller at office of commencement to be advised in the event of any accident, damaging of any seal, breakdown or other act or omission affecting the security of the goods

- (a) The licensed remover of goods in bond must immediately advise the Controller on the customs inspection report, form DA 189, at the office of commencement in the event of the following:
 - (i) An accident involving the bonded goods resulting in the destruction or damage or diminution of such goods;
 - (ii) any customs seal affixed to the means of transport of such goods being broken or damaged in any manner whatsoever;
 - (iii) a breakdown of the means of transport or other unforeseen circumstances necessitating the re-loading of such goods on to another means of transport;
 - (iv) any other act or omission of whatever nature affecting in any manner the security of such goods.
- (b) The form must be completed by a customs officer or an officer of the South African Police Service.

64D.15(9) Keeping of books, accounts and documents

- (a) (i) For the purposes of section 101 and notwithstanding anything to the contrary in any other rule contained, every licensed remover of goods in bond located in the Republic or a registered agent must –
 - (aa) keep an up to date list of the means of transport used for carriage of goods to which these rules relate indicating the date of any deletion or addition;
 - (bb) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activities in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (cc) include in such books, accounts and documents any requirements prescribed in any provision of the Act in respect of such activity; and
 - (dd) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to such activity as the Commissioner may require.
- (ii) The books, accounts and documents referred to in subparagraph (b)(i)(aa) and (bb) must include in respect of the carriage of each consignment of bonded goods –
 - (aa) a record of the instructions received from, and a copy of the contract of carriage, with the consignor;
 - (bb) a logbook containing particulars of the means of transport and a full account of the journey from the time of commencement until delivery of the bonded goods at the destination; and
 - (cc) copies of the manifest, bill of entry and any other document issued by any customs office or other authority during the transportation of the goods to their destination.
- (b) A licence is issued subject to the condition that the licensee or registered agent or at least one of the licensee's or registered agent's employees

permanently employed at the premises where or from where the business will be conducted must have sufficient knowledge of customs and excise laws and procedures to ensure that the activities to which the licence or registration relates are conducted efficiently and in compliance with the provisions of such laws and procedures.

64D.16(8) Cancellation or suspension of licence.

The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the cancellation or suspension of a licence issued to a licensed remover of goods in bond.

64D.17(8) Pro forma agreement, advice for issuing of a licence, renewal and refusal of a licence, bond and addendum to bond

(a) The following pro forma documents are specified in, and form part, of this rule:

- (i) agreement;
- (ii) advice for issuing of a licence and renewal of a licence;
- (iii) advice for refusal of a licence;
- (iv) removal bond;
- (v) addendum to removal bond;
- (vi) bond by a consignor in respect of the removal or carriage by road of bonded goods entered for removal in bond or for export;
- (vii) addendum furnished by consignor for increasing the amount of the bond in respect of goods entered for removal in bond or for export.

(b) Any expression in any document referred to in paragraph (a) shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act as defined in the rules for section 60 or in these rules.

64D.18(9) Delegation

Subject to section 3(2) –

- (a) any power that may be exercised by the Commissioner, except the power to make rules, in accordance with the provisions of the Act including these rules is delegated; and
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act including these rules is assigned.

in respect of the approval or refusal of an application for a licence or cancellation or suspension of a licence, to the Manager: Commercial Services, Customs and Excise.

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS and EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

(Section 64D and its rules)

Pro Forma Bond by a Consignor in respect of the Removal or Carriage by Road of Bonded Goods entered for Removal in Bond or for Export

Know all whom it may concern that –

Whereas _____ as principal debtor herein represented by:

1. _____

2. _____

in their respective capacities as

1. _____

2. _____

*being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at on the day of

*being duly authorised thereto with the express consent of the members of the close corporation / all the partners of a partnership / trustees held at on the day of

and:

..... as surety and co-principal debtor in *solidum* herein represented by:

1. _____

2. _____

in their capacities as

1. _____

2. _____

*being duly authorised thereto by virtue of standard internal regulations relating to signing powers

*Delete whichever is not applicable

are truly and lawfully indebted and are held and firmly bound to the Commissioner of the South African Revenue Service

in the amount of R..... (amount in words) to be paid on demand to the said Commissioner;

for which payment well and truly to be made we bind ourselves jointly and severally, each for the whole, our heirs, executors, administrators and assigns,

and whereas –

The Principal Debtor, being a consignor as defined in the rules for section 64D, is desirous of transacting business with the Commissioner for the South African Revenue Service in

furnishing security in respect of bonded goods removed or carried by road, to any destination within or outside the Republic as declared on any bill of entry or other document prescribed or approved by the said Commissioner for the purpose of entry of such goods, subject to the customs and excise laws of the Republic of South Africa governing the removal or carriage of such goods.

Now therefore the conditions of this obligations are such that if the Principal Debtor shall, in accordance with the provisions of the said laws prove to the satisfaction of the Commissioner for the South African Revenue Service that such goods have been duly delivered, received and entered for customs purposes or have been duly taken out of the common customs area and received in the country of destination, in accordance with the particulars declared on the bill of entry for removal in bond, under rebate of duty or for export or on any other document prescribed or approved by the Commissioner for the purpose of such entry, as the case may be, and otherwise fully comply with every obligation imposed under the provisions of such laws, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

FURTHERMORE WE, the Principal Debtor(s) and Co-Principal Debtor(s) renounce and waive the exceptions:

- (i) *Beneficium ordinis seu excussionis*;
- (ii) *Beneficium divisionis*; and
- (iii) Any other exception that the surety and co-principal debtor as surety may be entitled to in law.

With the meaning and effect of which we are fully acquainted.

This bond is not transferable or negotiable.

All admissions or acknowledgements of indebtedness made by the Principal Debtor shall be binding upon the Co-Principal Debtor.

The Commissioner or his delegated officer shall be at liberty, without affecting the Commissioner's rights hereunder, to release securities provided by or on behalf of the Principal Debtor by any person, association of persons, firm or company and to give time to,

or compound or make other arrangements with the Principal Debtor its legal representative in insolvency, judicial management or otherwise.

Any claim arising hereunder may be recovered in any division of the High Court of South Africa as the Commissioner may elect and the Co-Principal Debtor hereby consents and submits to the Jurisdiction of such a Court in respect of any such claim.

Signed by the principal at _____ on this _____ day of
_____ 20

Signature of Principal Signature of Principal

In the presence of the subscribed witnesses:

1. _____

2. _____

Signed by the Surety(ies) and Co-Principal Debtor(s) on this _____ day of
_____ at _____

Signature of Surety and Co-Principal Debtor Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

1. _____

2. _____

64D.19 Carriage of bonded goods by a subcontractor of a licensed remover of goods in
bond

- (a) Where a licensed remover of goods in bond has entered into a contract of carriage with a consignor to transport bonded goods to any destination declared on the bill of entry processed for such goods, such licensed remover may contract another such licensed remover (referred to in this rule as a “subcontractor”) to transport such goods to such destination on compliance with the following:

- (i) (aa) adequate security is furnished for the carriage of the goods;
and

- (bb) the consignor authorises, in writing, that the security bond may be utilised as security for the consignment in accordance with the provisions of rule 64D.11(5)(c);
 - (ii) the name, address and client number of the remover who subcontracted the transport of the goods, are inserted in the blocks provided on the bill of entry;
 - (iii) the road manifest (form DA 187) –
 - (aa) contains the names of both the licensed remover of goods in bond and the subcontractor;
 - (bb) is signed by both such remover and subcontractor;
 - (iv) where more than one subcontractor is contracted to transport a consignment a separate road manifest (form DA 187) is processed by the licensed remover of goods in bond for each portion of the consignment moved or carried by a subcontractor;
 - (v) where goods are transported in a sealed part of the means of transport –
 - (aa) the carriage of such goods may only be subcontracted to a subcontractor using similar sealable means of transport as contemplated in rule 64D.06(4);
 - (bb) the goods must be transferred to the means of transport of the subcontractor and the new seals affixed under supervision of an officer who must endorse the original and copies of the manifest to this effect and affix his or her signature and a date stamp to the endorsement.
- (b) Where the procedures prescribed in paragraphs (a)(iii) to (v) are not complied with the driver of the means of transport of the subcontractor may only be allowed to proceed to the destination at the place of exit after –
- (i) a satisfactory explanation is furnished by the subcontractor;
 - (ii) submission of certified copies of any documents required, if not produced by the driver to the Controller at the place of exit, through the office of the Controller at the place of commencement;
 - (iii) the Controller, on finding that the goods agree with the particulars on the bill of entry, authorises release.
- (c) The road manifest (form DA 187) –

- (i) contains the names of both the licensed remover of goods in bond and the subcontractor;
 - (ii) is signed by both such remover and subcontractor;
- (d) where more than one subcontractor is contracted to support a consignment –
- (i) a separate bill of entry is processed in respect of each subcontractor;
 - (ii) a separate road manifest (form DA 187) is processed for each subcontractor by the licensed remover of goods in bond.

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS and EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

(Section 64D and its rules)

Remover of Goods in Bond

Pro Forma Agreement between the Remover of Goods in Bond and the Commissioner for the South African Revenue Service

Whereas

(full name of applicant – hereinafter referred to as licensee)

(physical address of client – not a PO Box)

herein represented by

Full name

Capacity

*duly authorised thereto by virtue of –

- (a) *a resolution passed at a meeting of the Board of Directors held at
on day of; or
- (b) *express consent in writing of all the partners of a partnership / members of the close
corporation / *trustees of the trust; or
held at onday of
.....; or

has applied to be licensed as a remover of goods in bond; and

(*Delete whichever is not applicable)

Whereas the Commissioner has considered the application and decided to issue a licence subject to compliance with the terms and conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1. (a) Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner and to maintain such security until such time as the Commissioner is on good cause shown satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
- (b) Licensee agrees and undertakes that the security agreed on in paragraph 1(a) shall only be utilised as security for the fulfillment of the obligations of licensee and that it shall not under any circumstances be utilised by any other remover of goods in bond.
2. (a) Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –
 - (i) understands that its rights to conduct the business of a remover of goods in bond are subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that maybe imposed by the Commissioner;
 - (ii) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and the provisions of this agreement.

- (b) (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions conducted for any consignor or other person as well as the banking accounts and records relating to the business conducted under the licence.
- (ii) Licensee hereby agrees to and authorises the inspection of such books and documents and business banking accounts as the Commissioner and the delegated officers may require.
- (c) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee of the licensee –
 - (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition, obligation or other requirement specified in the rules of this agreement;
 - (iii) is convicted of any offence under this Act;
 - (iv) is convicted of any offence involving dishonesty;
 - (v) is sequestrated or liquidated;
 - (vi) fails to comply with any qualification requirement set out in the rules; or
 - (vii) ceases to carry on the business of a remover of goods in bond;
 and licensee acknowledge the right of the Commissioner to cancel or suspend the license in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.
- (d) Licensee in addition undertakes –
 - (i) to keep on the business premises books, accounts, documents and other records relating to the business transacted as a remover of goods in bond comprising, where applicable, at least –
 - (aa) in the case of imported goods, copies of the relative import bills of entry, transport documents, suppliers invoices, packing lists, bank stamped invoices, payment advices and other documents required in terms of section 39 of the Act;
 - (bb) in the case of exported goods, copies of the relative export bills of entry, invoices and other transport documents;

- (cc) in the case of the goods subject to rules of origin such records as are prescribed in the rules for sections 46, 46A and 49;
- (dd) every written instruction given for purposes of the Act by any consignor or other person;
- (ee) books, accounts and documents relating to the removal of goods in bond;
- (ff) to keep any other books, accounts, documents and other records which may be required in terms of any rule relating to the business transacted as a remover of goods in bond under the provisions of the Act;
- (gg) proof that the goods earned as a licensed remover of goods in bond have been accounted for as prescribed in the rules;
- (ii) notwithstanding any other provisions in the Act or the rules thereto, to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required in respect of any customs and excise procedure;
- (iii) to answer and to ensure that any employee answers, fully and truthfully any questions of the Commissioner or an officer relating to the carriage of goods required to be answered for purposes of the Act;
- (iv) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his delegated officer may require;
- (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure that –
 - (aa) the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed, and comply with the provisions of the Act;
 - (bb) the Commissioner is advised as soon as it may come to the knowledge of the licensee or any person in the employ of the licensee that any consignor has failed to comply with the provisions of the Act.

3. Licensee is aware of the prohibition to utilise any security given for purposes of the licence as security for any other remover of goods in bond and specifically undertakes

to institute such measures as may be necessary to ensure compliance with this requirement.

4. Licensee understands and accepts –
- (a) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such licence;
 - (b) the condition that at least the licensee or one of its employees permanently employed at the premises where or from where the business will be conducted must have sufficient knowledge of customs and excise laws and procedures to ensure that the activities to which the licence relates are conducted efficiently and in compliance with the provisions of such laws and procedures.
5. Licensee undertakes to render such proof, including audited financial statements, as maybe required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.
6. (a) The licensee chooses *domicilium citandi et executandi* at:
- _____
- _____
- (b) The Commissioner chooses *domicilium citandi et executandi* at:
- _____
- _____
7. Thus done and signed at: _____ on this _____
- _____
- _____
- Licensee
- Witness
8. Thus done and signed at: _____ on this _____

for and on behalf of Commissioner
for the South African Revenue Service

Witness

PRO FORMA ADVICE – RULE 64D.17(8)

Dear Sirs,

Re: Application to issue a licence / to renew a licence: Decision to refuse a licence

After due and proper consideration of your completed application it has been decided to refuse to issue a licence / refuse to renew your licence.

The reasons for this refusal are the following:

NOTE: Set out succinctly why, i.e.:

- (a) You were convicted of an offence involving dishonesty;
- (b) You failed to comply with the conditions of your licence, etc.

You are advised that you are entitled to have this decision reviewed by the Commissioner or by the High Court.

Yours faithfully

PRO FORMA ADVICE – RULE 64D.17(8)

Dear Sirs,

Application to issue licence/ to renew licence: Decision to issue a licence

After due and proper consideration of your application

- (a) to licence _____
- (b) to renew your licence as _____ it has been decided to –
- (a) issue a new licence for the period

(b) renew your licence for the period

Kindly note that your duly completed application for renewal should reach the office of the relevant Controller 30 (thirty) days prior to the expiry date of the licence.

Yours faithfully

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SOUTH AFRICAN REVENUE SERVICE

PRO FORMA BOND FOR A REMOVER OF GOODS IN BOND

To be furnished by a remover of goods in bond in accordance with the provisions of section 64D(6) of the Customs and Excise Act, 1964 (Act 91 of 1964) and the rules for section 64D

Know all whom it may concern that –

Whereas _____ as principal debtor, herein represented by:

1. _____

2. _____

in their respective capacities as

1. _____

2. _____

* being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at _____ on the _____ day of _____

* being duly authorised thereto with the express consent in writing of all the members of the close corporation/all the partners of a partnership/trustees of the trust held at _____ on the _____ day of _____

and:

_____ as surety and co-principal debtor in *solidum* herein represented by:

1. _____

2. _____

in their capacities as

1. _____

2. _____

being duly authorised thereto by virtue of standard internal regulations relating to signing powers

*Delete which is not applicable

are truly and lawfully indebted and are held and firmly bound to the Commissioner for the South African Revenue Service

in the amount of R_____ (amount in words) to be paid on demand to the said Commissioner,

for which payment well and truly to be made we bind ourselves jointly and severally, each for the whole our heirs, executors, administrators and assigns,

and, whereas –

the Principal Debtor is desirous of transacting business with the Commissioner for the South African Revenue Service as a licensed remover of goods in bond for the removal or carriage of bonded goods on behalf of a consignor to any destination within or outside the Republic as declared on any bill of entry or other document prescribed or approved by the said Commissioner for the purpose of entry of such goods, subject to the customs and excise laws of the Republic of South Africa governing the removal or carriage of such goods,

NOW therefore the conditions of this obligation are such that if the Principal Debtor shall, in accordance with the provisions of the said laws prove to the satisfaction of the Commissioner for the South African Revenue Service that such goods have been duly delivered, received and entered for customs purposes or have been duly taken out of the common customs area and received in the country of destination, in accordance with the particulars declared on the bill of entry for removal in bond, under rebate of duty or for export or on any other document

prescribed or approved by the Commissioner for the purpose of such entry as the case may be, and otherwise fully comply with every obligation imposed under the provisions of such laws, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

FURTHERMORE WE, the Principal Debtor(s) and Co-Principal Debtor(s) renounce and waive the exceptions:

- (i) *Beneficium ordinis seu excussionis*;
- (ii) *Beneficium divisionis*; and
- (iii) Any other exception that may be taken in law.

With the meaning and effect of which we are fully acquainted.

This guarantee is not transferable or negotiable.

All admissions or acknowledgements of indebtedness made by the Principal Debtor shall be binding upon the Co-Principal Debtor.

The Commissioner or his delegated officer shall be at liberty, without affecting the Commissioner's rights hereunder, to release securities provided by or on behalf of the Principal Debtor by any person, association of persons, firm or company and to give time to, or compound or make other arrangements with the Principal Debtor its legal representative in insolvency, judicial management or otherwise.

Any claim arising hereunder may be recovered in any division of the High Court of South Africa as the Commissioner may elect and the Co-Principal Debtor hereby consents and submits to the Jurisdiction of such a Court in respect of any such claim.

Signed by the principal at _____ on this _____ day of _____ 20

Signature of Principal

Signature of Principal

In the presence of the subscribed witnesses:

1. _____

2. _____

Signed by the Surety(ies) and Co-Principal Debtor(s) on this _____ day of
_____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

1. _____

2. _____

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

**PRO FORMA ADDENDUM FURNISHED BY CONSIGNOR FOR INCREASING
THE AMOUNT OF THE BOND IN RESPECT OF GOODS ENTERED FOR
REMOVAL IN BOND OR FOR EXPORT**

The sum in which we _____ as Principal (herein after referred to as the Principal) herein represented by –

1. _____

2. _____

in their respective capacities as –

1. _____

2. _____

* they being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at _____

* they being duly authorised thereto with the express consent in writing of all the members of the Corporation obtained at a members meeting held at _____ on the _____ day of _____

And _____ as Surety(ies) and Co-Principal Debtor(s) *in solidum* herein represented by –

1. _____

2. _____

in their respective capacities as –

1. _____

2. _____

they being duly authorised thereto by virtue of standard *internal banking / insurance regulations relating to signing powers, to the bond in the sum of R_____

Signed on behalf of the Principal at _____ on _____ day of _____ are bound under that bond, is hereby increased by an amount of R_____ to R_____

Signed by the Principal _____ on this _____ day of _____ at _____

Signature of Principal

Signature Principal

In the presence of the subscribed witnesses:

1. _____

2. _____

Signed by the Surety and Co-Principal Debtor on this the _____ day
of _____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal
Debtor

In the presence of the subscribed witnesses:

1. _____

2. _____

*Delete whichever is not applicable.

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

PRO FORMA ADDENDUM TO REMOVAL BOND – RULE 64D.10(8)

The sum in which we _____ as Principal
(hereinafter referred to as the Principal) herein represented by –

1. _____

2. _____

in their respective capacities as –

1. _____

2. _____

* they being duly authorised thereto by virtue of a resolution passed at a meeting of the
Board of Directors held at _____

* they being duly authorised thereto with the express consent in writing of all the
members of the Corporation obtained at a members meeting held at
_____ on the _____ day of _____:

And _____ as Surety(ies) and Co-Principal Debtor(s) *in solidum* herein
represented by –

1. _____

2. _____

in their respective capacities as –

1. _____

2. _____

they being duly authorised thereto by virtue of standard *internal banking / insurance regulations relating to signing powers, to the bond in the sum of R_____ signed on behalf of the Principal at _____ on the _____ day of _____, are bound under that bond, is hereby increased by an amount of R_____ to R_____.

Signed by the Principal _____ on this the _____ day of _____ at _____

Signature of Principal

Signature of Principal

In the presence of the subscribed witnesses:

1. _____ 1. _____

2. _____ 2. _____

Signed by the Surety and Co-Principal Debtor on this the _____ day
of _____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal
Debtor

In the presence of the subscribed witnesses:

1. _____ 1. _____

2. _____ 2. _____

*Delete whichever is not applicable

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS AND EXCISE ACT, 1964 (ACT 91 OF 1964)

**PRO FORMA ADDENDUM FURNISHED BY CONSIGNOR FOR INCREASING
THE AMOUNT OF THE BOND – RULE 64D.11(8)**

The sum in which we _____ as Principal
(hereinafter referred to as the Principal) herein represented by –

1. _____

2. _____

in their respective capacities as –

1. _____

2. _____

* they being duly authorised thereto by virtue of a resolution passed at a meeting of the
Board of Directors held at _____

* they being duly authorised thereto with the express consent in writing of all the
members of the Corporation obtained at a members meeting held at
_____ on the _____ day of _____

And _____ as Surety(ies) and Co-Principal
Debtor(s) *in solidum* herein represented by –

1. _____

2. _____

in their respective capacities as –

1. _____

2. _____

they being duly authorised thereto by virtue of standard *internal banking / insurance regulations relating to signing powers, to the bond in the sum of R_____ signed on behalf of the Principal at _____ on the _____ day of _____ are bound under that bond, is hereby increased by an amount of R.

Signed by the Principal _____ on this the _____ day of _____ at _____

Signature of Principal

Signature of Principal

In the presence of the subscribed witnesses:

1. _____ 1. _____
2. _____ 2. _____

Signed by the Surety and Co-Principal on this the _____ day of
_____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal
Debtor

In the presence of the subscribed witnesses:

1. _____ 1. _____
2. _____ 2. _____

*Delete whichever is not applicable

RULES FOR SECTION 64E

Accreditation of clients

64E.00 Numbering and application of other provisions

- (a) The number reflected after the rule number refers to the subsection to which the rule relates.
- (b) The provisions of, and the rules for, sections 59A, 60, 61, 64, 64A, 64B and 64D, including the definitions in these rules and any other provision relating to registration or licensing shall, where applicable, apply *mutatis mutandis* to the activities of an accredited client.

64E.01(1,2) Persons who may apply for accreditation and application for accredited client status

Only

- (a) a person registered under the provisions of this Act as an –
 - (i) exporter; or
 - (ii) importer; or
- (b) a person licensed under the provisions of the Act as a
 - (i) clearing agent; or
 - (ii) remover of goods in bond; or
 - (iii) a licensee of a customs and excise warehouse,may apply for accredited client status.
- (c) Application for accredited client status must be made on prescribed form DA 186 which must be supported by –
 - (i) the documents required in terms of the application form; and
 - (ii) a completed agreement in accordance with the contents of the pro forma agreement prescribed in this rule.

64E.02(1,2) Criteria for accreditation: Appropriate record of compliance, computer system and operational processes, sufficient knowledge and sufficient financial resources

- (a) To be eligible for accreditation, an applicant may be required to –

Appropriate record of compliance

- (i) prove an appropriate record of compliance with customs and excise laws and procedures for purposes of section 64E(1)(b)(i) which shall include –
 - (aa) that complete records are kept as prescribed by the rules for sections 59A, 60, 61, 64, 64B, or 64D as the case may be according to the nature of activity, which records must, where appropriate, include queries raised and settled, stop notes raised and settled and penalties imposed, confirmed or mitigated;
 - (bb) evidence of effective administrative measures instituted and maintained to ensure compliance with customs and excise laws and procedures;
 - (cc) complete banking account records regarding each transaction in connection with goods and persons to which the provisions of the Act relate,for a period of 5 years immediately preceding the application or such lesser period as the Commissioner may allow;

Computer system and operational procedures and processes

- (ii) demonstrate that his or her –
 - (aa) computer systems, if applicable; and
 - (bb) internal operational procedures and processes,will ensure compliance.

Sufficient knowledge

- (iii) prove that the person who will administer the accredited client requirements has sufficient knowledge of customs and excise laws and procedures to implement and maintain an efficient and effective accredited client compliance system in accordance with such laws

and procedures as contemplated in the rules for section 59A, 60 or 64B;

Sufficient financial resources

- (iv) produce evidence of sufficient financial resources in which respect every applicant shall –
 - (aa) provide the audited financial statements of the business for the past 2 financial years or such lesser period as the Commissioner may allow;
 - (bb) where no such statements are available, provide sufficient evidence to prove the viability of the business which may include proof of available financial resources of whatever nature.
- (b) Rules regarding an effective computer system referred to in section 64E(1)(b)(iii) will be published when section 101A comes into operation.

64E.03(2) Investigation necessary to verify statements in application

- (a) Investigations necessary to verify any statement in an application may include enquiries -
 - (i) concerning sufficiency of financial resources for the conduct of customs and excise business in relation to other business activities;
 - (ii) into and inspection of documents under the control of the Commissioner or of the applicant or any principal or agent of the applicant concerning the customs and excise transactions of the applicant;
 - (iii) concerning any other matter related to the application.
- (b) For the purposes of conducting any investigation contemplated in section 2(a), any audit or inspection of the books, accounts, other documents or other records of any applicant for accredited client status shall be for a period of two calendar years prior to the date the audit or inspection commenced.

64E.04(2) Deferment

Existing deferment for payment of duty or value-added tax agreements shall remain in force when any registrant or licensee attains accredited client status.

64E.05(3) Prior permission of the Commissioner required when the computer system of client changes.

For the purposes of these rules, an accredited client must, notwithstanding the terms and conditions of the user agreement which may be entered into by and between client and the Commissioner under section 101A, obtain the prior permission of the Commissioner, whenever, any change in the computer system operated by client occurs which will result in the –

- (a) client utilising a different computer system;
- (b) client changing from using its own computer system to using that of another third party;
- (c) client changing from using another third party computer system to using its own computer system; or
- (d) client contracting the services of an intermediary or a duly authorised agent to conduct customs and excise related business with the Commissioner within the terms and conditions of any agreement and the provisions of the Act and the rules.

64E.06(2) Standards of conduct

In respect of the standards of conduct referred to in subsection (2)(a)(iii) the following guidelines are applicable to the entry of goods –

- (a) in respect of particulars declared on any bill of entry or any other form approved or prescribed for the entry of goods for any purpose under the Act, not more than 5% of the lines on all such entries during the period specified in rule 64E.03(2)(b) shall have errors in any of the following particulars where these are required to be declared
 - (i) quantity;

- (ii) classification or description;
 - (iii) value;
 - (iv) originating status;
- (b) error for the purposes of paragraph (a) excludes any reasonable dispute under section 47, 49, 65, 66 or 69 or where a voucher of correction is passed prior to finalisation of the entry process.

64E.07(3) Delegation

- (a) Subject to section 3(2), for the purposes of administering the provisions of section 64E and these rules –
 - (i) any power that may be exercised by the Commissioner, except the power to make rules, in accordance with the provisions of the Act including these rules is delegated; and
 - (ii) and duty that shall be performed by the Commissioner in accordance with the provisions of the Act including these rules is assigned –
 - (aa) in the case of investigations contemplated in rule 64E.03(2), to the Controller;
 - (bb) in the case of approval or refusal of an application for accreditation or cancellation of accreditation, to the Manager: Commercial Services, Customs and Excise.

64E.08(3) Cancellation or suspension of accredited client status

The provisions of section 64E(3) and the provisions of section 60(2) apply *mutatis mutandis* to the refusal, cancellation or suspension of accredited client status.

64E.09(3) Agreement

- (a) A pro forma agreement is specified in, and forms part of, this rule.
- (b) Any expression in the pro forma agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act as defined in the rules for section 60 or in these rules.

ACCREDITATION OF CLIENTS

PRO FORMA AGREEMENT – RULE 64E.09(3)

**Between the Commissioner of the South African Revenue Service and
an accredited client under section 64E(2)(B)
of the Customs and Excise Act, 1964 (Act 91 of 1964)**

Whereas

(full name of Accredited Client – hereinafter referred to as client)

(physical address of client – not a PO Box)

herein represented by

Full Name

Capacity

*duly authorised thereto by virtue of -

- (a) *a resolution passed at a meeting of the Board of Directors held at
..... on day of
.....; or

- (b) express consent in writing of all the partners of a partnership / *members of the
close corporation / *trustees of the trust; or

held at on day of; or

hereinafter referred to as client

has applied for accreditation status; and –

whereas the Commissioner has considered the application and decided to approve the applicant as an accredited client subject to compliance with all the terms and conditions of this agreement, it is agreed that the client shall be bound by the following:

- (1) Client acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which accreditation is granted that –
 - (a) it understands its rights to conduct business as an accredited client are subject to compliance with customs and excise laws and procedures and any standards imposed by the Commissioner; and
 - (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and standards and the provisions of this agreement.
- (2)
 - (a) Client is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his delegated officers to inspect the books and records of the business in respect of which accreditation status was granted including such records relating also to individual clients or specific transactions conducted for any principal as well as the banking accounts and records in so far as it relates to the business conducted under the accredited scheme.
 - (b) Client hereby agrees to and authorises the inspection of such books and documents and business banking accounts whenever reasonably required for purposes of the Act by the Commissioner.
- (3)
 - (a) Client is aware of its obligations to advise, and undertakes to advise, the Commissioner as required by the provisions of the rules for section 59A or 60, as the case may be, whenever client or any employee of client –
 - (i) has contravened or failed to comply with the provisions of the Act;
or
 - (ii) has failed to comply with any condition or requirements of this agreement; or
 - (iii) is convicted of any offence under the Act; or
 - (iv) is convicted of any offence involving dishonesty;and client acknowledges the right of the Commissioner to cancel or suspend the accredited client status in accordance with the provisions of section 64E.

- (b) Whenever any bill of entry or other prescribed document presented for any purpose under the Act or these rules does not in every respect comply with the provisions of the Act and these rules, client undertakes to forthwith adjust such bill of entry or other document as prescribed and to maintain a written record of –
 - (i) how the relevant errors occurred;
 - (ii) what action was taken to correct the errors; and
 - (iii) what actions were taken to prevent future occurrences of such errors.
 - (c) Notwithstanding the terms and conditions of the user agreement which may be entered into by and between client and the Commissioner under section 101A, client undertakes to obtain the prior permission of the Commissioner, whenever, any change in the computer system operated by client occurs which will result in the –
 - (i) client utilising a different computer system;
 - (ii) client changing from using its own computer system to using that of another third party;
 - (iii) client changing from using another third party computer system to using its own computer system; or
 - (iv) client contracting the services of an intermediary or a duly authorised agent to conduct customs and excise related business with the Commissioner within the terms and conditions of any agreement and the provisions of the Act and the rules.
- (4) (a) Client undertakes to maintain instituted administrative measures and wherever possible to improve such measures so as to ensure that standards of conduct are maintained and improved upon, in that –
 - (i) the contents of all documentation submitted for any purpose under the Act comply in every respect with the requirements of the Act;
 - (ii) such documentation are duly and properly verified against all other relevant documentation; and
 - (iii) each and every supporting document, which client's accredited status might allow him not to submit with any prescribed bill of entry or other document, is properly kept and available for audit or inspection by the Commissioner as prescribed, and agreed to herein.

- (b) An inspection period against which standards of conduct for purposes of compliance with the terms and conditions of this agreement will be tested is two calendar years prior to the date the inspection commenced.
 - (c) It is a specific term of this agreement that whenever client discovers that any bill of entry or other prescribed document processed by client does not in every respect comply with the provisions of the Act and client adjusts such bill of entry or other document, forthwith and without the intervention of the Commissioner, a Controller or any officer during any audit or inspection, no error will be measured for purposes of determining compliance with the prescribed standards of conduct.
 - (d) Client specifically agrees that no changes in the administration of transacting business under the Act will be implemented without the prior written approval of the Commissioner.
- (5) Client acknowledges that the accredited status under the Act and this agreement shall lapse and be cancelled if client is no longer registered or licensed under any provision of the Act and undertakes to advise the Commissioner forthwith of the occurrence of such fact.
- (6) Client in addition undertakes to –
 - (a) keep all books, accounts, documents, data and other records relating to the transactions of the business as prescribed in section 101 and the rules;
 - (b) notwithstanding any other provision in the Act or the rules, keep such books, accounts, documents, data and other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which the specific document was created, lodged or required, or any goods were placed under any procedure, for the purposes of the Act;
 - (c) answer any questions of the Commissioner or an officer relating to its business or that of its principal which is required to be answered for purposes of the Act;

- (d) comply diligently with the conditions and obligations contained in any other agreement between client and the Commissioner;
- (e) ensure that –
- (i) the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed, in accordance with the instructions of its principal and complies with the provisions of the Act;
 - (ii) every person in the employ of the client and engaged in the business of the client is conversant with the Act, its rules and procedures and with the requirements relating to the business of the client and the office of the Commissioner and is able to answer any question that may be required to be answered for purposes of the Act;
 - (iii) the Commissioner is advised as soon as it may come to the knowledge of the client, or any person in the employ of the client, that any principal of the client has failed to comply with the provisions of the Act and of any steps the client took to prevent such non-compliance.
- (7) Approval as an accredited client does not exempt client from complying with the provisions of the Customs and Excise Act and rules and continued accreditation requires due observance of such provisions.
- (8) (a) The client chooses *domicilium citandi et excutandi* at:

- (b) The Commissioner chooses *domicilium citandi et excutandi* at:

Thus done and signed at _____ on this _____

Licensee

Witness

Thus done and signed at _____ on this _____

for and on behalf of Commissioner for
the South African Revenue Service

Witness

64E.10 First Level accredited client status

- (a) From 1 August 2011–
 - (i) accredited client status conferred by the Commissioner on any applicant prior to that date shall be deemed to be Level 1 accredited client status as contemplated in section 64E(4);
 - (ii) no application for Level 1 accredited client may be made and any application received on or after that date will be returned to the applicant who may, if qualified to apply, apply for Level 2 on form DA 186.
- (b) Level 1 accredited client status lapses if–
 - (i) Level 2 status is granted on application; or
 - (ii) if any Act so provides.
- (c) Rules 64E.00 to 64E.09(3) apply to–
 - (i) Level 1 accredited clients; and
 - (ii) Level 2 accredited clients where any other rule so provides.
- (d) Level 2 accredited client status may be conferred by the Commissioner on any applicant who meets the criteria for that level as prescribed in these rules.

64E.11 Application of other provisions

The provisions of, and the rules for, sections 59A, 60, 61, 64B and 64D, including any definitions in these rules and any other provisions relating to registration or licensing shall, where applicable, apply with the necessary changes to the activities of a Level 2 accredited client.

64E.12 Persons who may apply for Level 2 accreditation and application for accredited client status

- (a) Only an importer or exporter registered in terms of the Act, including any importer or exporter deemed to be a Level 1 accredited client in terms of rule 64E.10(a), may apply for Level 2 accredited client status.
- (b) Application for Level 2 accredited client status must be made on form DA 186.

64E.13 Criteria for Level 2 accreditation

Appropriate record of compliance, computer, accounting and logistical system, sufficient knowledge and sufficient financial resources

To be eligible for Level 2 accreditation—

Appropriate record of compliance

- (a) the applicant, the person having the management of the applicant and the employee of the applicant responsible for customs matters shall—
 - (i) not have been convicted of an offence involving fraud or dishonesty;
 - (ii) not have been convicted of any offence in terms of the Act;
 - (iii) not have incurred an administrative penalty over a period of three years immediately preceding the application in respect of any offence in terms of

sections 80 to 84 and 86 of the Act;

- (iv) not have been convicted of any offence in terms of–
 - (A) section 59 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991); or
 - (B) section 104 of the Income Tax Act, 1962 (Act No. 58 of 1962).

Computer, Accounting and logistical system

- (b) the applicant must–
 - (i) communicate electronically and register as a user in accordance with the provisions of section 101A;
 - (cc) maintain a full audit trail of all customs activities;
 - (dd) have a record of verifiable procedures for backup, recovery, fallback, archiving and retrieval of business records;
 - (ee) have an effective accounting, recordkeeping and operational system consistent with generally accepted accounting principles.

Sufficient knowledge

- (c) the person employed by the applicant who will be responsible for the customs matters in (a) must before being employed in that capacity first pass a test administered by the Commissioner to prove that he has sufficient knowledge of customs and excise laws and procedures to implement and maintain an efficient and effective accredited client compliance system in accordance with such laws and procedures as contemplated in the rules for section 59A or 60.

Sufficient financial resources

- (d) the applicant shall produce evidence of sufficient financial resources in which respect every applicant shall–

- (i) provide the audited financial statements of the business for the past three financial years or such lesser period as the Commissioner may allow;
- (ii) where no such statements are available, provide sufficient evidence to prove the viability of the business which may include proof of available financial resources of whatever nature.

64E.14 Benefits applicable to Level 2 accredited client status

Benefits will be conferred by the Commissioner on Level 2 accredited clients generally on a particular category of clients or specifically allowed for a particular client as circumstances may require and may include—

- (a) appointment of a Customs Relationship Manager tasked with facilitating the relationship between the client and customs;
- (b) reduction of the amount of any security required for compliance with a customs procedure;
- (c) fewer routine documentary and physical inspections;
- (d) prioritising a request for tariff and valuation determinations;
- (e) prioritising access to non-intrusive inspection techniques when goods are stopped or detained for inspection.

64E.15 Prior permission of the Commissioner required when the computer system of client changes

For the purposes of these rules, an accredited client must, notwithstanding the terms and conditions of the user agreement which may be entered into by and between client and the Commissioner under section 101A, obtain the prior permission of the Commissioner, whenever, any change in the computer system operated by client occurs which will result in the—

- (e) client utilising a different computer system;

- (f) client changing from using its own computer system to using that of a third party;
- (g) client changing from using a third party computer system to using its own computer system; or
- (h) client contracting the services of an intermediary or a duly authorised agent to conduct customs and excise related business with the Commissioner within the terms and conditions of any agreement and the provisions of the Act and the rules.

64E.16

Rules 64E.03(2) and 64E.04(2) shall apply respectively to any application for Level 2 accreditation and when accredited client status is granted.

64E.17 Delegation

Subject to section 3(2), for the purposes of administering the provisions of section 64E and these rules—

- (a) any power that may be exercised by the Commissioner, except the power to make rules, in accordance with the provisions of the Act including these rules may be delegated to an officer; and
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act including these rules is assigned—
 - (i) in the case of investigations contemplated in rule 64E.03(2), to the officer responsible for Customs Audit;
 - (ii) in the case of approval or refusal of an application for accreditation, de-accreditation, cancellation or suspension of accreditation to the Accreditation Review Committee;
 - (iii) to the Customs Relationship Manager for the performance of functions contemplated in rule 64E.14

64E.18 Establishment and functions of an Accreditation Review Committee

An Accreditation Review Committee must have a chairperson, appointed by the Commissioner, who must nominate members of the committee from officers who have the necessary knowledge and skills to consider and review decisions relating to the approval or refusal of an application for accreditation, de-accreditation, cancellation or suspension of accreditation.

64E.19 Period of validity of accredited client status

Accredited client status:

- (a) takes effect from the date the Commissioner confers the status on an applicant; and
- (b) remains in force, subject to any action that may be taken as contemplated in rule 64E.20, for a period of three years from that date.

64E.20 Cancellation or suspension of accredited client status

The provisions of section 64E(3) and the provisions of section 60(2) apply *mutatis mutandis* to the refusal, cancellation or suspension of accredited client status.”

RULES FOR SECTION 64F OF THE ACT

Licensing of distributors of fuel obtained from the licensee of a customs and excise manufacturing warehouse

64F.01 Definitions and application of other provisions

- (a) For the purposes of these rules, the application of relevant rules for section 19A, the agreement and any form to which these rules relate, unless the context otherwise indicates –

“any other country in the common customs area” means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the

Kingdom of Swaziland; (referred to in the rules for section 19A as a ‘BLNS country’);

“customs and excise laws and procedures” shall have the meaning assigned thereto in rule 59A.01(a);

“fuel” means “fuel as defined in section 64F and includes “fuel levy goods” contemplated in rule 19A.01(c);

“goods” includes fuel;

“manufacturing warehouse” means a licensed customs and excise manufacturing warehouse;

“refund” means a refund of excise duty, fuel levy or Road Accident Fund levy as provided for in items 623.11, 671.09 and 671.11 of Schedule No. 6;

“the Act” includes any provision of “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964).

- (b) Except as otherwise provided in section 64F and these rules the provisions of –
- (i) the rules for section 19A;
 - (ii) sections 64D and 64E and the rules therefore including the definitions in such rules;
 - (iii) the rules for section 59A, where applicable, section 60 and the rules therefor including the definitions in such rules;
 - (iv) the rules numbered 120A, where applicable, shall apply, *mutatis mutandis* to the licensing of, and any activity of, or in connection with, a licensed distributor.

Applications for and refusal, suspension or cancellation of a licence, *pro forma* agreement and bond

- 64F.02 (a) A person applying for a licence or renewal of a licence as a licensed distributor must –

- (i) apply on form DA 185 and the appropriate annexure thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences, any requirement specified in Schedule No. 6 and any additional requirements that may be determined by the Commissioner;
 - (ii) submit with the application the completed agreement in accordance with the *pro forma* agreement specified in these rules;
 - (iii) before a licence is issued furnish the security the Commissioner may require.
- (b)
 - (i) Where security is furnished in the form of a bond such bond and any addendum thereto shall be in accordance with the *pro forma* bond and addendum specified in these rules;
 - (ii) Such security may be amended from time to time by the provision of addendums to the bond;
 - (iii) Rules 120.08 and 120.09 shall *mutatis mutandis* apply to such bond;
 - (iv) Whenever any particulars regarding the legal status or address of the licensed distributor change in any manner whatsoever, such distributor shall immediately –
 - (aa) advise the Controller;
 - (bb) provide such addendums to the Controller as may be required;
 - (cc) substitute the security where appropriate;
 - (dd) comply with such requirements and directions as the Controller may issue in respect of security.
- (c)
 - (i) An expression in the *pro forma* agreement or bond shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act or in the rules for section 60 or these rules.
 - (ii) The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the *pro forma* advice to be issued in respect of suspension or cancellation of a licence.
- (d) The provisions of section 60(2) shall apply *mutatis mutandis* in respect of the refusal of an application for a new licence or renewal of a licence, or the withdrawal or suspension of a licence for a licensed distributor.

Delegation

64F.03 Subject to section 3(2), where –

- (a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of this Act, including these rules, is not specifically delegated; or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned to any Controller or officer in these rules or in any section or rule regulating the movement of goods to which these rules relate;

such power is delegated or such duty is assigned, as the case may be, to the officer responsible for Excise Operations.

Issue of invoices or dispatch delivery notes in respect of fuel removed from stocks of a licensee of a customs and excise manufacturing warehouse

- 64F.04 (a) Any licensed distributor who obtains any fuel from stocks of a licensee of a customs and excise manufacturing warehouse for any purpose contemplated in section 64F and specified in any item of Schedule No. 6, must in addition to any other document required to be completed in respect of any procedure prescribed in the Act, complete an invoice or dispatch delivery note, serially or transaction numbered and dated which must include at least –
- (i) the licensed name, customs client number and physical address of the licensed distributor who so obtains such goods;
 - (ii) the licensed name and customs client number of the licensee of such warehouse, as well as the physical address of the storage tank from which the fuel was obtained;
 - (iii) a description of the goods so obtained, including the relevant tariff item thereof;
 - (iv) the quantity of goods (of which the volume must be stated at 20° Celsius) so obtained;
 - (v) the date the goods were obtained from such tank;

- (vi) the business name and the address of the person in the country of export or in the common customs area to whom the goods are removed;
 - (vii) the price charged for each unit and the total price of the invoiced goods.
- (b) The invoice price paid or payable by any purchaser in any other country of the common customs area must include excise duty and exclude fuel levy.
- (c) In addition to the requirements specified in rule 19A.04, the invoice issued by the licensee of the customs and excise manufacturing warehouse to the licensed distributor must reflect the rate of duty and amount of duty included in the price to the licensed distributor.

Keeping of books, accounts and documents

- 64F.05 (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must, as required in terms of rule 60.08(2) –
- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued;
 - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.
- (b) Such books, accounts, documents and data must include where applicable –
- (i) proper accounting records of each type of goods obtained and removed;

- (ii) copies of invoices, dispatch delivery notes, bills of entry or other documents relating to the movement of the goods, transport documents, orders, payments received and made and proof of delivery to the consignee in respect of goods removed for any purpose contemplated in section 64F;
- (iii) copies of the contract of carriage entered into between the licensee and the licensed remover of goods in bond and delivery instructions issued to such remover in respect of each consignment; and
- (iv) copies of the applications for refund of duty and supporting documents.

Procedures relating to the movement of fuel to a BLNS country or exported

- 64F.06 (a) The procedures and other requirements prescribed in rule 19A4.04 which regulate the removal of fuel levy goods to a BLNS country or when exported shall apply *mutatis mutandis* in respect of fuel so removed to any other country in the common customs area or so exported as contemplated in section 64F and these rules.
- (b) Unless the licensed distributor uses own transport, such fuel, if wholly or partly transported by road, must be carried by a licensed remover of goods in bond contemplated in section 64D.
- (c) The number and date of the invoice issued by the licensee of the customs and excise manufacturing warehouse from whom the licensed distributor obtained the goods for such removal or export must be reflected on the form SAD 500.
- (d) Any load of fuel obtained from the licensee of a customs and excise manufacturing warehouse must be wholly and directly removed for delivery to a BLNS country or exported, as the case may be, in order to be considered for a refund of duty.

Application for a refund of duty

- 64F.07 (a) (i) Application for a refund of excise duty, fuel levy or Road Accident Fund levy may only be submitted monthly in respect of fuel actually delivered to the purchaser in another country of the common customs area or exported during the month preceding such application;
- (ii) a separate application for such refund must be submitted in respect of fuel removed to such other country and fuel exported.
- (b) Any such application must be on form DA 66 and must be supported by –
- (i) (aa) forms SAD 500 and SAD 502 or SAD 505 duly completed as contemplated in rule 19A4.04;
- (bb) where relevant, the final rail consignment note, the bill of lading or air way bill;

- (ii) the invoice from the licensee of the customs and excise warehouse from whom the goods were obtained;
 - (iii) if removed to a BLNS country by road, a copy of the invoice and delivery note on which receipt is acknowledged by the consignee.
- (c) The licensed distributor must submit with each application for refund a statement to the effect that –
 - (i) the goods obtained from the licensee of the customs and excise manufacturing warehouse and removed to any other country in the common customs area or exported as reflected on such application were duly removed to and received in such other countries or were dully exported, as the case may be;
 - (ii) a record of such removal or export is available at the place of business of such licensed distributor as contemplated in rule 64F.05 and will be kept in accordance with the requirements of that rule.
- (d) Any such application is subject to the provisions of item 623.11 or 671.09 or 671.11 of Schedule No. 6.

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

LICENSING OF DISTRIBUTORS OF FUEL

**(Pro forma Agreement between the licensed distributor contemplated in section 64F and
its rules and the Commissioner)**

Annexure A

As _____

(Full name of applicant – hereinafter referred to as “licensee”)

of _____

(Physical address of applicant – not a PO Box)

herein represented by

Full name

Capacity

*duly authorised thereto by virtue of -

- (a) *a resolution passed at a meeting of the Board of Directors held at
.....on day of;
or
- (b) *express consent in writing of all the partners of a partnership / members of the
close corporation / *trustees of the trust; or
- (c) *being a person having the management of any other association of persons
referred to in rule 60.03(2)(a)(iv), has applied to be licensed as a licensed
distributor; and

(*Delete whichever is not applicable)

as the Commissioner has considered the application and decided to issue a licence subject to
compliance with the terms and conditions of this agreement, it is agreed that the licenses shall
be bound by the following:

1. Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner and to maintain such security until such time as the Commissioner is on good cause shown satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
2. (a) Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –
 - (i) understands that its rights to conduct the business of licensed distributor are subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be imposed by the Commissioner;
 - (ii) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and the provisions of this agreement.
- (b) (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions as well as the banking accounts and records relating to the business conducted under the licence.
- (ii) Licensee agrees to and authorises the inspection of such books and documents and business banking accounts as the Commissioner and the delegated officers may require.
- (c) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee (except in respect of subparagraphs (v) or (vii)) of the licensee –
 - (i) has contravened or failed to comply with the provisions of the Act;
 - (ii) has failed to comply with any condition or requirement of this agreement or any condition or obligation imposed by the Commissioner in respect of such licence;

- (iii) is convicted of any offence under the Act;
- (iv) is convicted of any offence involving dishonesty;
- (v) is sequestrated or liquidated;
- (vi) fails to comply with the qualification requirement set out in the rules for section 60; or
- (vii) ceases to carry on the business for which the licence is issued, and licensee acknowledges the right of the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.

(d) Licensee in addition undertakes:

- (i) to keep on the business premises proper books, accounts, documents and other records relating to the transactions of the business comprising, where applicable, at least –
 - (aa) copies of the relative export bills of entry, other prescribed movement documents, invoices, bills of lading and other transport documents, orders and payments received and made;
 - (bb) every contract entered into and any instruction given to any licensed remover of goods in bond in respect of the carriage of goods by such remover;
 - (cc) books, accounts, documents and proof of fulfillment of any obligation relating to the removal and delivery of goods obtained from the licensee of a customs and excise manufacturing warehouse to another country in the common customs area or exported;
 - (dd) copies of the application for refund or duty and supporting documents; and
 - (ee) any other books, accounts, documents and other records which may be required in terms of any rule relating to any business transacted by a licensed distributor;
- (ii) notwithstanding any other provisions in the Act or the rules thereto, to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;

- (iii) to answer and to ensure that any employee answers fully and truthfully any questions of the Commissioner or an officer relating to its business or that of its principal required to be answered for purposes of the Act;
 - (iv) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his delegated officer may require;
 - (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure –
 - (aa) that the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed in accordance with the provisions of the Act;
 - (bb) that every person in the employ of the licensee and engaged in the customs and excise business of the licensee is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act.
- 3. Licensee is aware of the obligation at all times to be able to prove the fulfillment of any obligation relating to the goods obtained, exported or removed to another country in the common customs area as may be required in terms of any provision of the Act.
- 4. Licensee understands and accepts –
 - (i) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such licence;
 - (ii) the condition prescribed in the rules for section 60 that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be, transacting the customs and excise related business with

clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.

5. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.

6. (a) The licensee chooses *domicilium citandi et executandi* at:

.....
.....

(b) The Commissioner chooses *domicillium citandi et executandi* at:

.....
.....

7. Thus done and signed at on this

.....

.....

Licensee

Witness

Thus done and signed at on this

for and on behalf of Commissioner
for the South African Revenue Service

Witness

SOUTH AFRICAN REVENUE SERVICE

PRO FORMA BOND FOR A LICENSED DISTRIBUTOR OF FUEL

(To be furnished by a licensed distributor of fuel in accordance with the provisions of section 64F of the Customs and Excise Act, 1964 (Act No. 91 of 1964) and the rules for section 64F)

Known all whom it may concern that –

Whereas _____ as principal debtor, herein represented by

1. _____

2. _____

in their respective capacities as

1. _____

2. _____

*being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at _____ on the _____ day of _____ 20

*being duly authorised thereto with the express consent in writing of all the members of the close corporation / all the partners of a partnership / trustees of the trust held at _____ on _____ day of _____ 20

and:

as surety and co-principal debtor *in solidum* herein represented by:

1. _____

2. _____

in their respective capacities as

1. _____

2. _____

being duly authorised thereto by virtue of standard internal regulations relating to signing powers

*Delete whichever is not applicable;

are truly and lawfully indebted and are held and firmly bound to the Commissioner for the South African Revenue Service

in the amount of R_____ (amount in words)

to be paid on demand to the said Commissioner,

for which payment well and truly to be made we bind ourselves jointly and severally, each for the whole our heirs, executors, administrators and assigns,

and, whereas –

the Principal Debtor is desirous of transacting business with the Commissioner for the South African Revenue Service as a licensed distributor of fuel as contemplated in section 64F of the Customs and Excise Act, 1964 and the rules therefor for the purpose of obtaining a refund of duty on fuel obtained from stocks of a licensee of a customs and excise manufacturing warehouse and removed in accordance with any prescribed document and delivered to a purchaser in any other country in the common customs area or exported, subject to compliance with the provisions of the said section and rules and any other customs and excise laws of the Republic governing such refund or the removal or export of such fuel,

NOW therefore the conditions of this obligation are such that if the Principal Debtor shall, in accordance with the provisions of the said provisions of such section, the rules and other laws, have proved to the satisfaction of the Commissioner for the South African Revenue Service that such goods have been duly delivered in the common customs area or have been duly taken out of the common customs area for export in accordance with such prescribed document for the purposes of entitlement to a refund of duty, and shall have repaid any amount of duty which was not duly refundable in respect of such removal or export, and

otherwise fully comply with any obligation imposed under the provisions of such section, rules or other laws, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

FURTHERMORE WE, the principal Debtor(s) and Co-Principal Debtor(s) renounce and waive the:

- (i) *Beneficium ordinis seu excussionis*;
- (ii) *Beneficium divisionis*; and
- (iii) Any other exception that may be taken in law.

With the meaning and effect of which we are fully acquainted.

This guarantee is not transferable or negotiable.

All admissions or acknowledgements of indebtedness made by the Principal Debtor shall be binding upon the Co-Principal Debtor.

The Commissioner or his delegated officer shall be at liberty, without affecting the Commissioner's rights hereunder, to release securities provided by or on behalf of the Principal Debtor by any person, association of persons, firm or company and to give time to, or compound or make other arrangements with the Principal Debtor its legal representative in insolvency, judicial management or otherwise.

Any claim arising hereunder may be recovered in any division of the High Court of South Africa as the Commissioner may elect and the Co-Principal Debtor hereby consents and submits to the Jurisdiction of such a Court in respect of any such claim.

Signed by the Principal at _____ on this _____
day of _____ 20 at _____

Signature of Principal

Signature of Principal

In the presence of the subscribed witnesses:

1. _____

2. _____

Signed by the Surety(ies) and Co-Principal Debtor(s) on this _____ day
of 20 _____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

1. _____

2. _____

and as Surety(ies) and Co-Principal Debtor(s) *in solidum*

herein represented by -

1. _____

2. _____

in their respective capacities as -

1. _____

2. _____

they being duly authorised thereto by virtue of standard *internal banking / insurance regulations relating to signing powers, to the bond in the sum of R_____

Signed on behalf of the principal at _____ on this _____ day of _____ 20 are bound under that bond, is hereby increased by an amount of R_____ to R_____

Signed by the principal at _____ on this _____ day of _____ 20 at _____

Signature of Principal

Signature of Principal

In the presence of the subscribed witnesses:

1. _____	1. _____
2. _____	2. _____

Signed by the Surety and Co-Principal Debtor on this the _____ day of _____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

1. _____	1. _____
2. _____	2. _____

*Delete whichever is not applicable

SOUTH AFRICAN REVENUE SERVICE

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

***PRO FORMA* ADDENDUM TO BOND FOR LICENSED
DISTRIBUTOR – RULE 64F.02**

The sum in which we _____ as Principal (hereinafter referred to as the Principal) herein represented by –

1. _____

2. _____

in their respective capacities as -

1. _____

2. _____

*they being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at _____

*they being duly authorised thereto with the express consent in writing of all the members of the close corporation/all the partners of a partnership/trustees of the trust obtained at a meeting held at _____ on this _____ day of _____ 20____ and as Surety(ies) and Co-Principal Debtor(s) *in solidum*

herein represented by -

1. _____

2. _____

in their respective capacities as -

1. _____

2. _____

they being duly authorised thereto by virtue of standard *internal banking / insurance regulations relating to signing powers, to the bond in the sum of R_____

signed on behalf of the Principal at _____ on this _____ day of _____ 20____ are bound under that bond, is hereby increased by an amount of R_____ to R_____

Signed by the Principal on this _____ day of _____ 20____ at _____

Signature of Principal

Signature of Principal

In the presence of the subscribed witnesses:

1. _____ 1. _____

2. _____ 2. _____

Signed by the Surety and Co-Principal Debtor on this the _____ day of _____ at _____

Signature of Surety and Co-Principal Debtor

Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

1. _____ 1. _____

2. _____ 2. _____

*Delete whichever is not applicable

RULES FOR SECTION 64G OF THE ACT

Licensing of, and conditions and procedures applicable to, degrouping depots contemplated in sections 6(1)(hC) and 64G for goods imported by air

64G.01 Date of operation and effect on existing degrouping activities

From the date these rules come into operation -

- (a) no person shall carry on degrouping activities as contemplated in section 6(1)(hC), section 64G and these rules, except in a degrouping depot licensed in terms of the Act;
- (b) any goods which on that date -
 - (i) have been received on any premises so licensed for such degrouping activities;
 - (ii) are in possession or under the control of any person for such activities,shall, from the date of issue of such a licence be subject to the provisions of section 64G and the conditions and procedures prescribed in these rules.

64G.02 Definitions

In these rules, in the agreement, and in any form or other document relating to section 64G and such rules, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and, unless the context indicates otherwise -

‘agreement’ means the agreement between the Commissioner and the degrouping operator contemplated in section 64G(2)(a)(ii);

‘cargo’ means goods imported by air;

‘customs and excise laws and procedures’ shall have the meaning assigned thereto in rule 60.01(1);

‘discrepant package’ includes any damaged, ullaged or pilfered package;

‘electronically submitted’ and cognate expressions relating to electronic communication means the electronic communication between a user and the Commissioner, the Controller or an officer in accordance with the provisions of section 101A, its rules, the user agreement contemplated in that section and the user manual referred to in such agreement;

‘excess goods’ means goods in excess of manifested activities or excess unmanifested goods;

‘goods’ means goods as defined in section 1 imported by air, which in relation to the activities in a degrouping depot are consolidated as contemplated in section 6(1)(hC) and are degrouped in such depot;

‘person’ includes a person as defined in rule 60.01(1);

‘shortage’ includes any goods shortlanded, shortshipped or shortpacked according to manifested quantities;

‘the Act’ includes any provision of ‘this Act’ as defined in section 1;

‘transit shed’ means a transit shed for goods imported by aircraft contemplated in sections 6(1)(g), 44(4) and 44(5C);

‘transit shed operator’ means the person in control of a transit shed;

64G.03 Application for a licence or renewal of a licence

- (a) A degrouping depot may only be licensed at a place appointed by rule in terms of section 6(1)(hC).
- (b) Except where otherwise specified in these rules and subject to any additional requirement prescribed in such rules for the relevant application form, the rules for section 60 shall apply *mutatis mutandis* to any application for licensing and the licensee of a degrouping depot.
- (c) Any applicant for a licence or renewal of a licence must apply on form DA64G.01 and comply with all the requirements contemplated in section 64G(1)(b).
- (d) The application must be supported by –
 - (i) the documents and information specified in the application form;
 - (ii) except where in the case of a renewal, the security is not affected, the security particulars specified in form DA64G.01A; and
 - (iii) the agreement completed in accordance with the *pro forma* agreement included in these rules.

64G.04 Security

- (a) Before any licence is issued a degrouping operator must –
 - (i) pay the prescribed licence fee;
 - (ii) furnish security as determined by the Commissioner in accordance with the provisions of section 60(1)(c)(i).
- (b) Such security may be altered as contemplated in section 60(1)(c)(ii).
- (c) If security is furnished in the form of a bond, such bond –
 - (i) is subject to the provisions of rules 120.08 and 120.09;
 - (ii) must be in the form of the *pro forma* bond prescribed in these rules.

- (d) In determining the amount of security, the Commissioner may take into account -
 - (i) the average amount of duty leviable monthly on imported cargo removed by the applicant for degrouping over a six-month period; or
 - (ii) an estimated amount of duty so leviable in respect of cargo that will be removed to the degrouping depot by the applicant over a six-month period after commencing of degrouping operations.

64G.05 Refusal of application for a licence or renewal, suspension or cancellation of a licence

The provisions of section 60(2) and the rules for section 60 shall apply *mutatis mutandis* to any refusal of an application for licensing of a degrouping depot or the renewal, cancellation or suspension of the licence issued in respect of a degrouping depot.

64G.06 Commissioner to be advised of changed particulars and issue of a new licence

- (a) (i) Whenever any of the particulars furnished in any application for a licence changes in any material way, the licensee shall advise the Commissioner within 7 days from the date of the occurrence of such event by submitting a completed application form DA64G.01 reflecting the changed particulars.
- (ii) For the purpose of subparagraph (i) 'changes in any material way' shall include –
 - (aa) relocation, which will only be allowed if the new premises conform to the requirements specified in these rules; or
 - (bb) where the legal status or name of the degrouping operator changes for any reason.
- (b) In any case where in the opinion of the Commissioner the security is compromised in any manner by such change, the form, nature or amount of such security shall be altered as the Commissioner may require in accordance with the provisions of section 60(1)(c)(ii).
- (c) On approval of the application, the Commissioner will issue a new licence in respect of such change.

- 64G.07 Requirements with which the licensed degrouping operator must comply
Any licence for a degrouping depot is issued subject to the licensee complying with -
- (a) section 64G, these rules, any requirement specified in any form or other document prescribed in these rules and any other customs and excise laws and procedures relating to the goods, the purposes and activities for which the degrouping depot is licensed;
 - (b) the terms and conditions of the *pro forma* agreement included in these rules.
- 64G.08 Degrouping depot to be operated on a non-discriminatory basis
No degrouping operator shall, with regard to the services and facilities provided by him or her, practice any discrimination against any importer or the agent of such importer or any class of such importers or their agents.
- 64G.09 Requirements in respect of the premises, equipment and security of the degrouping depot
- (a) The applicant for a degrouping depot licence must be the owner or lessee of the premises of the proposed degrouping depot and must submit a certified copy of the title deed or lease with the application.
 - (b) In addition to the requirements of paragraph (a), an application for a degrouping depot licence will only be considered if the premises, security and equipment of the proposed depot, conform with and are declared in a certificate signed by the person authorized to apply for a licence as conforming to the following requirements:
 - (i) The buildings and other structures are constructed as shown on the plan submitted;
 - (ii) the buildings are structurally sound, safeguarded against fire, secure against burglary, and the whole premises are fenced with security fencing;
 - (iii) all windows, doors, gates and other means of access are fully secured with adequate locking devices;
 - (iv) the premises are protected by security measures to prevent illegal delivery of goods from the degrouping depot;
 - (v) a separate area is provided in a building for the safekeeping of goods which may not be released due to detention or seizure;

- (vi) the degrouping depot is equipped with the necessary equipment and appliances to handle all goods contained therein and perform all relevant functions; and
 - (vii) a secure enclosed area or strong room facilities are provided in a building for the safe storage of broached packages and high risk articles.
- (c) For the purposes of officers who may perform any function at the degrouping depot, the degrouping operator must provide at own cost when required -
- (i) suitable accommodation, office furniture and parking and sanitary facilities;
 - (ii) sufficient space and facilities such as scales and other equipment for use by officers to conduct examinations;
 - (iii) the necessary staff to ensure reliable service for the opening, unpacking, presenting for examination, repacking and closing of containers, boxes or packages;
 - (iv) any other equipment as may be required for the safety or for any other purpose by officers for carrying out their duties,
- (d) The degrouping depot must be serviced by road transport and situated within 20 kilometres from a customs and excise airport appointed in terms of section 6 or such further distance as the Commissioner, on good cause shown, may allow.

64G.10 Standards to be maintained in respect of premises, equipment and security and services

- (a) The maintenance of premises and equipment and other requirements specified in the certificate required in terms of rule 64G.09 and submitted with the application, the services to clients, the conduct of customs business and the facilities provided for officers must be in accordance with the reasonable standards required by the Commissioner.
- (b) Compliance with any such standards may be evaluated annually by the Commissioner.

64G.11 Submission of reports required in terms of section 8 and electronic communication

- (a) A degrouping operator must register in terms of section 8 for the purpose of submission of any cargo report required to be submitted in terms of that section and its rules.
- (b) For the purpose of electronic communication with the Commissioner, the Controller or an officer as contemplated in section 101A, including any report referred to in paragraph (a), the degrouping operator must register as a user and enter into a user agreement as prescribed in the said section 101A and its rules.

64G.12 Removal of goods from the transit shed to the degrouping depot and from the degrouping depot to any other degrouping depot

- (a)
 - (i) No goods may be removed from a degrouping depot to a transit shed.
 - (ii)
 - (aa) Any goods removed from a transit shed to a degrouping depot or from a degrouping depot to any other degrouping depot must be entered, subject to paragraph (bb), prior to such removal on form SAD 500 and SAD 505 for removal in bond in terms of section 18 and its rules.
 - (bb) Where any goods are removed directly from the aircraft or any secure premises contemplated in section 6(1)(g), to a degrouping depot situated within the distance prescribed in rule 64G.11(d), such goods may be removed in bond in terms of section 18 on forms SAD 500 and SAD 505 reflecting for the purposes of identification of the goods so removed, only the relevant transport document numbers relating to the carriage of the goods to the place of landing and such other particulars as the Controller may determine.
- (b) The removal in bond of any goods by road from a transit shed to a degrouping depot or from a degrouping depot to another degrouping depot is subject to the provisions of section 64D and must be carried by -
 - (i) a licensed remover of goods in bond; or
 - (ii) the degrouping operator using own transport.
- (c) Any goods so removed in bond and received by a degrouping operator as contemplated in section 44(5C) must be taken into storage, verified, recorded and reported on as prescribed in these rules.

- 64G.13 Time of clearance of goods from a degrouping depot
- (a) (i) For the purposes of sections 18, 38, 43(1)(b), 44(5C) and 64G, 'due entry' of goods removed in bond to a degrouping depot requires that the goods must be duly entered for home consumption or for warehousing in a licensed customs and excise warehouse.
 - (ii) Such due entry must be made in the case of -
 - (aa) goods removed in bond from a transit shed to a degrouping depot, within 14 days from the date of landing of the goods concerned;
 - (bb) goods removed in bond from a degrouping depot to any other degrouping depot, within 14 days from receipt thereof in such degrouping depot.
 - (iii) Goods so removed from one degrouping depot to another degrouping depot may not again be removed therefrom to any other such depot.
 - (b) Where due entry has not been made as contemplated in paragraph (a), such goods must, for the purposes of sections 43 and 44(5C), on the first working day after expiry of such period of 14 days, be removed to the State warehouse or other place indicated by the Controller, which may include that the goods remain in the degrouping depot.
 - (c) The provisions of paragraph (a) shall apply *mutatis mutandis* to uncleared excess goods contemplated in rule 8.10.
 - (d) Any goods remaining in the degrouping depot after such due entry for home consumption or warehousing shall be subject to the provisions of section 107(1)(b).
- 64G.14 Issue of receipt for goods received and goods to be verified against manifests
- (a) The degrouping operator must acknowledge in writing the receipt of goods from a transit shed operator or other degrouping depot operator.
 - (b) For the purposes of control of goods received –
 - (i) all consolidated cargo received must be verified against air cargo manifests;
 - (ii) all goods unpacked must be verified against the applicable consolidation manifest as well as the individual house manifests issued in respect of the individual consignments contained within the consolidation; and

- (iii) any shortages against or surplus to manifest quantities, unmanifested cargo or discrepant packages must be endorsed on such manifests and further dealt with as contemplated in rule 64G.16.

- (c) The degrouping operator must submit outturn reports in respect of all goods received in the degrouping depot in accordance with the rules for section 8.

64G.15 Unpacking and sorting of cargo

- (a) Goods must be unpacked, sorted and arranged in the degrouping depot in the order of receipt therein.
- (b)
 - (i) Goods must be conclusively unpacked in that consolidations within consolidations must be unpacked to the level of the actual and individual importer of the goods.
 - (ii) No unpacking to a lower level than contemplated in subparagraph (i) is allowed.

64G.16 Shortages, goods in excess of unmanifested quantities, manifested excess goods and discrepant packages.

- (a) Any goods received into or removed to a degrouping depot, any shortages against or excess goods to manifested quantities, unmanifested excess goods or any discrepant packages must be -
 - (i) in the case of any excess goods and any goods shortshipped, shortlanded or shortpacked, specified on the outturn report as contemplated in rule 8.10;
 - (ii) in the case of goods landed but short received or any packages received in a discrepant condition from any transit shed operator or another degrouping operator, so qualified on the receipt issued to such transit shed or degrouping operator,
 - (iii) recorded and reported by the degrouping operator on a form approved by, and reflecting the particulars and declarations determined, by the Commissioner.
- (b) Discrepant packages shall be placed in the security area provided therefor as indicated on the plan submitted with the application immediately after removal from the consolidation.
- (c) Any excess goods must, immediately after detection, be placed in a separate area specifically reserved for such goods.

- 64G.17 Outturn reports
- Outturn reports and any other reports prescribed for the purpose of the Manifest Acquittal System contemplated in the rules for section 8, must be submitted in accordance with the requirements of such rules.
- 64G.18 Storage of goods
- (a) Goods unpacked must be stacked in such a manner that they are readily available for identification and checking.
- (b) Any goods in the degrouping depot, including any surplus goods referred to in these rules -
- (i) if not duly entered; or
- (ii) if duly entered have not been removed from the degrouping depot within the relevant period contemplated in rule 64G.13,
- must, as required in that rule, be removed to the State warehouse or other place indicated by the Controller.
- 64G.19 Liability for duty
- (a) The degrouping operator is liable for duty and liability for duty ceases in respect of goods received as contemplated in section 44(5C) and for goods removed in bond as specified in section 18.
- (b) The degrouping operator must keep and produce on demand to an officer valid proof of any customs procedure in terms of which -
- (i) liability for duty has ceased in terms of the said sections 18 and 44(5C);
- (ii) a record of any procedure required in terms of these rules or any other provision of the Act in respect of goods shortlanded, shortpacked, shortshipped or short received or excess goods received from the transit shed operator and of discrepant packages.
- 64G.20 Goods subject to examination or detention
- (a) Any goods in a degrouping depot may be detained by the Controller as contemplated in rule 38.11.
- (b) Where the Controller orders that the goods detained must be delivered at a place indicated by the Controller, the degrouping operator must, at his or her cost, risk and expense, so deliver the goods.

- (c) Such goods may not as required in terms of rule 38.11 be delivered, removed or otherwise dealt with except as ordered by the Controller or if the goods are detained for the purpose of any other authority administering any other law as contemplated in section 113(8) as ordered by such authority.

64G.21 Release and removal of goods from the degrouping depot

- (a) Except goods detained which are subject to compliance with the procedures prescribed in rule 38.11, the degrouping operator may only allow goods to be removed from a degrouping depot after -
 - (i) due entry;
 - (ii) release of the goods is authorized by the Commissioner, the Controller or an officer; and
 - (iii) in the case of a manual release, upon receipt of a valid release copy of such entry or any other document approved by the Controller authorizing release of the goods concerned as provided in rule 38.08.
- (b) As stated in rule 64G.11, for the purposes of any electronic communication with the Commissioner, a Controller or an officer as contemplated in section 101A, the degrouping operator must register as a user and enter into a user agreement as prescribed in the said section 101A and its rules.
- (c) In addition to or in confirmation of any provision regulating such electronic communication in section 101A, its rules or the user manual referred to in those provisions, the degrouping operator -
 - (i) may not release any goods except on receipt of an electronic release message in respect of the goods concerned from the South African Revenue Service;
 - (ii) must again ascertain the release status of all goods immediately prior to removal from the degrouping depot in order to ensure that the release status has not been changed by a subsequent electronic message.
- (d) For the purposes of paragraph (a), but subject to rule 64G.13 -
 - (i) Where the degrouping operator receives packages short that have been shortlanded, but the packages are expected to arrive on a later flight, the degrouping depot may only release the consignment

against a valid release document when all the packages have been received.

- (ii) Where any such packages do not arrive on a later flight the degrouping operator may only release the packages received against a valid release document or a bill of entry amended by voucher of correction reflecting the number of packages actually landed and received by the degrouping operator.

64G.22 Acquittal of manifests

- (a) For the purposes of this paragraph 'acquittal of manifest' means proof that the liability for duty of the degrouping operator in respect of the manifested goods or excess goods or unmanifested excess goods received with such manifested goods has ceased in consequence of -
 - (i) due entry of the goods and a valid release thereof;
 - (ii) removal in bond to and receipt of the goods into any other degrouping depot;
 - (iii) proof that any goods in discrepant packages did not enter into consumption; or
 - (iv) compliance with any other procedure prescribed in these rules or any other provision of the Act.
- (b)
 - (i) For the purposes of manual acquittal, acquitted copies of air cargo manifests in respect of each consignment received by the degrouping operator as contemplated in section 44(5C) must be submitted to the Controller within 30 days after arrival of the carrying aircraft at the place of discharge.
 - (ii) Manifests may be acquitted manually by -
 - (aa) valid customs release documents for manifested goods or unmanifested goods or goods in excess of manifested quantities;
 - (bb) in the case of goods short received or discrepant packages as contemplated in 64G.17, a copy of the shortage report or discrepant package report, as the case may be, endorsed by an officer to the effect that according to the circumstances verified by him or her the degrouping operator is not liable for duty on such shortage or discrepancy;

- (cc) where goods are removed in bond to another degrouping depot, an acknowledgement of receipt from the degrouping operator of such depot;
 - (dd) in the case of goods of which due entry has not been made in the circumstances contemplated in rule 64G.13 a receipt from the officer in charge of the State warehouse or confirmation by the Controller of delivery of the goods at a place indicated by the Controller as contemplated in section 44(5C).
- (c) The requirement relating to the manual acquittal of manifests may be discontinued from a date to be specified in these rules.

64G.23 Keeping of books, accounts and other documents

- (a) For the purposes of sections 64G(7)(b) and 101 every degrouping operator must -
- (i) notwithstanding anything to the contrary contained in the Act, keep proper books, accounts and other documents and any data created by means of a computer, of all transactions relating to the activities in the degrouping depot and any goods received therein or removed thereto or therefrom, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purpose of any customs and excise procedure;
 - (ii) include in such books, accounts or other documents -
 - (aa) copies of manifests together with master air waybills and relevant house air waybills;
 - (bb) copies of outturn reports;
 - (cc) copies of all documents relating to the procedure in respect of excess goods, shortages or discrepant packages as required in terms of these rules;
 - (dd) proof of delivery and receipt of goods removed to and from the degrouping depot;
 - (ee) the release copies of bills of entry or other such release document specified in rule 38.10, printed copies of electronic release messages received from the South African Revenue Service; and
 - (ff) any other book, account or document relating to the activities;

- (iii) any accounting records kept in respect of the business of a licensed degrouping depot shall utilize information prepared in a manner consistent with generally accepted accounting principles appropriate for such business and for fulfillment of the requirements of the Act relating to the activities in such depot.

64G.24 Inspection, examination and supervision

The degrouping depot shall be open to customs and excise officers -

- (a) for inspection and verification of the books, accounts and other records contemplated in rule 64G.23 during the applicable hours of business for the Controller's office in whose area of control the degrouping depot is situated; and
- (b) for examination of goods and supervision of any activity in the degrouping depot, including tallying operations, within any time during which the degrouping depot is open for business.

64G.25 Knowledge of customs and excise laws and procedures

At least one of the directors, members, partners, trustees or employees permanently employed, as the case may be, transacting customs and excise related business with clients of such business at the licensed degrouping depot premises shall have sufficient knowledge of customs and excise laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.

64G.26 Delegation

Subject to section 3(2), where -

- (a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of the Act, including these rules, is not specifically delegated; or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned to any Controller or officer in these rules or in any section or rule regulating any requirement in respect of goods to which section 64C or these rules relate, such power is delegated or such duty is assigned, as the case may be, to the Manager: Commercial Services, in the Customs and Excise division of the South African Revenue Service.

64G.27 *Pro forma* agreement and surety

The following *pro forma* documents are specified in terms of and form part of,
this rule:

- (a) The *pro forma* agreement referred to in rule 64G.03; and
- (b) the *pro forma* bond referred to in rule 64G.04.

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

LICENSING OF DEGROUING DEPOTS

***Pro Forma* Agreement between the licensee of a degrouing depot and the**

Commissioner

(Section 64G and its rules)

Annexure A

As

(Full name of applicant – hereinafter referred to as ‘licensee’)

of

(Physical address of applicant – not a PO Box)

herein represented by

.....

Full Name

Capacity

*duly authorised thereto by virtue of -

(a) *a resolution passed at a meeting of the Board of Directors held at

..... on the

day of; or

(b) *express consent in writing of all the partners of a partnership / *members of the close corporation /*trustees of the trust; or

(c) *being a person having the management of any other association of persons referred to in rule 60.02(2)(a)(iv),

has applied for a degrouing depot licence in accordance with the provisions of section 64G and its rules, and

(*Delete whichever is not applicable)

as the Commissioner has considered the application and decided to issue a licence subject to the compliance with the terms and conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1. Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the Commissioner and to maintain such security until such time as the Commissioner is on good cause shown satisfied that every liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
2. Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the licence is granted that it –
 - (a) understands that its rights to conduct the business of a degrouping depot are subject to compliance with customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be imposed by the Commissioner;
 - (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and the provisions of this agreement.
 - (c)
 - (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions as well as the banking accounts and records relating to the business conducted under the licence.
 - (ii) Licensee hereby agrees to and authorises the inspection of such books and documents and business banking accounts as the Commissioner and the delegated officers may require.
 - (d) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee (except in respect of subparagraph (v)) of the licensee -
 - (i) has contravened or failed to comply with the provisions of the Act;

- (ii) has failed to comply with any condition or requirement of this agreement or any condition or obligation imposed by the Commissioner in respect of such licence;
 - (iii) is convicted of any offence under the Act;
 - (iv) is convicted of any offence involving dishonesty;
 - (v) is sequestrated or liquidated;
 - (vi) fails to comply with the qualifying requirement set out in the rules for section 60; or
 - (vii) ceases to carry on the business for which the licence is issued,
- and licensee acknowledges the right of the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.
- (e) Licensee in addition undertakes:
- (i) to keep on the business premises books, accounts, documents and other records relating to the transactions of the degrouping depot comprising, where applicable, at least -
 - (aa) copies of the relative import bills of entry or release copies of such bills of entry or such other release documents as specified in rule 38.10, transport documents, manifests, outturn reports, discrepant cargo reports, proof of receipt and delivery of goods removed to and from the degrouping depot, printed copies of the electronic release documents received from the South African Revenue Service, and any other documents required in terms of the rules for section 64G;
 - (bb) every contract entered into and any instruction given to any licensed remover of goods in bond in respect of the carriage of goods by such remover;
 - (cc) to keep any other books, accounts, documents and other records which may be required in terms of any provision of the Act relating to any activity as a licensee of a degrouping depot;
 - (ii) notwithstanding any other provisions in the Act or the rules thereto to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;

- (iii) to answer and to ensure that any employee answers, fully and truthfully any questions of the Commissioner or an officer relating to its business or that of his/her principal required to be answered for purposes of the Act;
 - (iv) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his or her delegated officer may require;
 - (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure -
 - (aa) that the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed in accordance with the provisions of the Act;
 - (bb) that every person in the employ of the licensee and engaged in the degrouping depot activities of the licensee is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act;
 - (vi) to provide the necessary accommodation, office furniture, parking and other facilities for the use of officers when required as prescribed in the rules.
3. Licensee is aware of the obligation to account for all goods received and at all times to be able to prove the fulfillment of any obligation relating to the payment of duty, removal in bond or other movement of such goods as may be required in terms of any provision of this Act.
4. Licensee understands and accepts -
- (a) that any application for a new licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such licence;
 - (b) the condition prescribed in the rules for section 64G that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be, transacting the customs and excise related business with clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise

laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.

5. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.

6. (a) The licensee chooses *domicilium citandi et executandi* at:

.....
.....
.....
.....

.....

.....

.....

.....

..... on this
..... day of

Licensee

Witness

..... on this
..... day of

For and on behalf of the Commissioner

Witness

SOUTH AFRICAN REVENUE SERVICE

PRO FORMA BOND FOR A LICENSED DEGROUPING DEPOT

(To be furnished by the applicant for a licence (degrouper operator) in accordance with the provisions of section 64G of the Customs and Excise Act, 1964 (Act 91 of 1964) and the rules for the said section 64G)

KNOW ALL WHOM IT MAY CONCERN THAT –

WHEREAS as Principal Debtor, herein represented by:

1.

2.

in their respective capacities as

1.

2.

* being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at on the day of;

* being duly authorised thereto with the express consent in writing of all the members of the close corporation / all the partners of a partnership / trustees of the trust held at on the day of

and:

..... as Surety and Co-Principal Debtor in *solidum* herein represented by:

1.
2.

in their respective capacities as

1.
2.

being duly authorised thereto by virtue of standard internal *banking / insurance regulations relating to signing powers

(* Delete which is not applicable)

are truly and lawfully indebted and are held and firmly bound to the Commissioner for the South African Revenue Service

in the amount of R..... (amount in words)
to be paid to the said Commissioner,

for which payment well and truly to be made we bind ourselves jointly and severally, each for the whole our heirs, executors, administrators and assigns,

FURTHERMORE we, the Principal Debtor(s) and Co-Principal Debtor(s) renounce and waive the exceptions:

- (i) *Beneficium ordinis seu excussionis*;
 - (ii) *Beneficium divisionis*; and
 - (iii) Any other exception that may be taken in law,
- with the meaning and effect of which we are fully acquainted.

WHEREAS the Principal Debtor has applied for a licence in respect of the premises to be used as a degrouping depot subject to the customs and excise laws of the Republic relating to licensing of a degrouping depot and the Commissioner has approved the application.

NOW THEREFORE the conditions of this obligation are that –

- (i) if all the goods received by the degrouping operator for storage or any other purpose or activity in a degrouping depot as contemplated in sections 6(1)(hC) and 64G of the Customs and Excise Act, 1964 and the rules therefor, have been lawfully delivered to the importer or his or her agent after due entry has been made; or

In the presence of the subscribed witnesses:

1.
2.

Signed by the Surety(ies) and Co-Principal Debtor(s) on this

..... day of 20..... at
.....

.....
Signature of Surety and Co-Principal Debtor	Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

1.
2.

CHAPTER IX

VALUE

RULES FOR SECTION 65 OF THE ACT

Furnishing of information

- 65.01 Any importer shall, if requested in writing, furnish on a form DA 55 or in any other manner specified in the request, full particulars as may be deemed necessary to determine the customs value of goods imported by him. The importer concerned shall furnish such information not later than 30 days from the date of such request.

Value determination

- 65.02 A number shall be allocated to any determination in respect of a customs value and the importer shall be notified in writing of such determination and its number. The importer shall, in respect of future consignments from the same supplier, insert such value determination number in the field “Additional Information” on the bill of entry.
- 65.03 If any importer so requests, he shall be advised in writing of the method used in determining the customs value of his goods.

RULES FOR SECTION 66 OF THE ACT

Exemptions from declaration

- 66.01 The following classes or kinds of goods are exempted from the requirements of section 66(2)(c) –
- (a) Goods imported by an importer from a single supplier and which do not exceed R10 000 in value per consignment;
 - (b) goods which are not liable to an *ad valorem* duty, or to an *ad valorem* duty in addition to, or as an alternative to any other duty;
 - (c) goods cleared under the provisions of paragraphs (i) to (iv) of the proviso to section 38(1)(a); and
 - (d) goods entered under rebate of duty provided for in items 403.01, 405.01, 405.02, 405.03/37.05 to 405.03/90.10, 405.04, 405.05/92.00, 405.05/00.00/02.00, 405.09, 406.00 to 408.01, 408.03, 410.03/27.10 to 411.00/85.01, 412.02 to 412.04, 412.06, 412.08 to 412.16, 412.20 to 460.06/28.35, 460.06/38.17 to 460.16/85.00 and all items of Part 3 of Schedule No. 4.

Related persons

- 66.02 The tests provided for in section 66(3)(b) shall be used on request of the importer and for comparative purpose only.

Valuation code on bill of entry

- 66.03 For the purpose of section 66(2)(c) any importer who is –
- (a) related to the supplier of the goods shall so indicate, in the field “Valuation Code” on the bill of entry, by inserting the letter “R”; and
 - (b) not related to the supplier of the goods shall so indicate in the field “Valuation Code” on the bill of entry, by inserting the letter “N”.
- 66.04 Every importer of goods exempted in terms of rule 66.01 shall indicate such exemption by inserting the letter “E” in the field “Valuation Code” on the bill of entry.
- 66.05 The valuation methods prescribed in sections 66(1), 66(4), 66(5), 66(7), 66(8) and 66(9) of the Act, shall be known as Valuation Methods 1 to 6, respectively, and every importer shall indicate which Valuation Method is applicable to his goods by inserting in the field “Valuation Code” on the bill of entry after the letter “R” or “N” as required by rule 66.03 the appropriate method number: Provided that importers of the classes or kinds of goods enumerated in rule 66.01 are exempted from this requirement.

RULE FOR SECTION 69 OF THE ACT

Invoice price

- 69.01 (a) In calculating the value for excise duty purposes of goods specified in terms of section B of Part 2 of Schedule No. 1 (excluding the items in section 69(1)(a)) on the basis of the invoice price contemplated in section 69(1)(d) and (e) there may be deducted from the final price stated on such invoice as contemplated in paragraph (b), in terms of the provisions of that section, the percentage stated in each case in respect of the following of such items –
- (i) 55 per cent in respect of items 118.10, 118.15, 118.20;
 - (ii) 20 per cent in respect of items 124.05 and 124.07;
 - (iii) 30 per cent in respect of items 124.40, 124.70 and 124.75; and

- (iv) 50 per cent in respect of cellular telephones other than those designed for use when carried in the hand or on the person which were dutiable in terms of item 124.66 and which were removed from a customs and excise warehouse during the period from 1 July 2002 to 30 June 2004.
- (b) All particulars in respect of any discount, credit or other remission or any other information whatever which relates to the invoiced price of the goods reflected on such invoice shall be fully and completely be set out on such invoice which invoice shall indicate the full and final price of such goods.
- (c) No discount, remission or credit which is not equally available to every potential participant in the normal course of trade in the market for the goods shall be deducted when the value for excise duty purposes of such goods is ascertained or determined.
- (d) Notwithstanding the provisions of paragraph (c), no discount is deductible from the invoice price in respect of any goods specified in the items stated paragraph (a)(i).

CHAPTER X

REBATES, REFUNDS AND DRAWBACKS OF DUTY

RULES FOR SECTION 75 OF THE ACT

“Registration of rebate users affected by amendments of items, tariff headings or subheadings in Schedule No. 3 or 4 effective from 1 January 2012

75.00 From 1 January 2012, a rebate user shall be regarded as being registered to receive imported goods classifiable within an amended item or tariff heading or subheading shown in the column for “Version 2012 (HS 2012)” if such rebate user is, immediately prior to that date, registered under any item of Schedule No. 3 or 4 to receive imported goods classifiable within the corresponding item or tariff heading or

subheading for “Version 2011 (HS 2007)” listed in the correlation table on the SARS website.

General provisions

- 75.01 Any person desirous of obtaining any goods under the provisions of any item of Schedule No. 3 or of such items of Schedule No. 4 or 6 as may be indicated in the notes to Schedules No. 4 or 6 to the tariff shall apply to the Controller on the prescribed form for registration to obtain such goods and for registration of the premises where goods will be used or stored. Such application shall be accompanied by a plan of such premises and showing the exact location of the rebate store required in terms of rule 75.08.
- 75.02 Goods which have been entered under any item referred to in rule 75.01 or which have been transferred in terms of the provisions of rule 75.11 shall, except with the permission of the Controller in circumstances which he considers exceptional and on such conditions as he may impose in each case, be conveyed directly to the appropriate approved store, vessel, tank, yard or other place for the storage of such goods on the registered premises of the registrant in question and shall be stored only in such store, vessel, tank, yard or other place which shall be kept locked or secured in a manner approved by the Controller at all times when not actually in use for depositing or removing any goods.
- 75.03 The books, documents, stocks and premises of every registrant under any item of Schedule No. 3, 4 or 6 shall at all reasonable times be available for inspection by an officer.
- 75.04 Any registrant shall, when required to do so by the Controller, carry out under the supervision of an officer, at such times as the Controller may deem necessary, any manufacturing operation in which materials specified in and entered under any item referred to in rule 75.01 are being used.
- 75.05 A registrant shall notify the Controller immediately, or in advance, of any change, or contemplated change, no matter of what nature, in his legal identity, the name under which he trades, the address of his registered premises, the nature of the materials obtained by him under the provisions of Schedule No. 3, 4

or 6, the nature of the goods manufactured from such materials and the position, size or other particulars of his rebate store mentioned in rule 75.08.

Registered premises

- 75.06 No registrant shall, without the written permission of the Controller and subject to such conditions as he may impose in each case, perform or permit or arrange to be performed any process or operation or any portion of the manufacture of any goods on any premises other than his registered premises.
- 75.07 The Controller may require any registrant to provide separate stores, vessels, tanks, yards or other places for storage in respect of goods provided for in different items of Schedule No. 3, 4 or 6 or to perform the manufacturing operations in which such goods are used in separate sections of his registered premises and he may impose such conditions and requirements in regard to such separation of stores or sections as he considers necessary.

Rebate stores

- 75.08 Every applicant for registration shall provide, on the premises to be registered in terms of the provisions of the rules, a store, vessel, tank, yard or other place (to be known as a rebate store) which is secure and adequate and complies with such requirements as the Controller may impose in each case, for the storage of materials obtained under the provisions of section 75 and such applicant shall provide at his own expense such separate fastenings as will permit of such rebate store being locked by an officer but the Controller may exempt any applicant from the requirements of this rule on such conditions as he may impose in each case.
- 75.09 All goods in a rebate store shall be so arranged and marked that they will be easily identifiable and accessible for inspection and that each consignment and the particulars thereof can readily be ascertained and checked.
- 75.10 Except with the written permission of the Controller, only goods which have been entered under rebate of duty under the provisions of Schedule No. 3, 4 or 6 may be stored in a rebate store.

Transfer of goods

- 75.11 A registrant may transfer any goods entered under any item referred to in rule 75.01 to any other registrant who is registered under the same item or to the same or any other registrant who is registered under any other item in which the same goods are specified if the extent of the rebate under such items at the time of such transfer is the same, provided such goods were acquired as a result of an unconditional sale and are owned by the first-mentioned registrant at the time of such transfer and an application on form DA 62 for such transfer is submitted to and approved by the Controller prior to such transfer. If the extent of the rebate under such items is not the same the Controller may require the application on form DA 62 to be accompanied by a statement of the circumstances in which the transferor desires to transfer the goods in question. If such application is granted any difference in duty payable as a result of such transfer shall be paid to the Controller by the transferor before such transfer.
- 75.12 Notwithstanding the provisions of rule 75.11 the Controller may, in circumstances which he considers to be exceptional (for example, insolvency of manufacturer, ceasing of operations), permit a registrant to transfer goods which are not owned by him under the provisions of the said rule.
- 75.13 The transferor of any goods transferred in terms of the provisions of rule 75.11 shall remain liable for the duty on such goods until they have been delivered to the transferee, whereupon the transferee shall be liable for the duty on the goods so transferred.

Records

- 75.14 Every registrant shall keep a stock record which shall be in a form approved by the Controller and which shall show full particulars of all goods obtained under rebate by him as well as of the use or disposal of such goods. The stock record shall be kept in such a manner that the said goods can really be accounted for. The said stock record shall contain at least the following particulars which shall be entered daily in such stock record:
- RECEIPTS:
- Registrant's shipment or goods received number
 - Number and date of bill of entry or transfer form

- Name of ship or name and address of transferor / manufacturer
- Date received
- Tariff heading and rebate item
- Description, quantity and value of goods

ISSUES:

- Date issued to factory
- Quantity issued
- Nature and quantity of goods produced (Yield, if applicable)
- Reference number
- Balance of stock on hand (rebate product)

75.15 Any registrant shall, if required to do so by the Controller, also keep a production record which shall show therein or thereon all receipts at factory ex rebate store, as well as the nature and quantities of the materials used and of the finished articles manufactured therefrom, in such a manner as the Controller may decide. A registrant shall also keep such samples of materials obtained under rebate of duty as the Controller may require and in such manner as he may decide.

75.16 The Controller may, in respect of any goods referred to in rule 75.01 or in respect of any industry or any class of registrant using such goods, require that a special stock record or special production record in a form approved by him and reflecting such particulars as he may decide, be kept in respect of such goods or for such industry or by such registrant in addition to or in lieu of the stock record or production record referred to in rule 75.14 or 75.15.

If the Controller requires cutting orders to be kept in respect of any industry such cutting orders shall have a sample snippet of the material affixed thereto and shall reflect, *inter alia*, the number and date of the bill of entry, the total number of metres entered, the rating (the number of metres required in the manufacture of each garment or unit) and the number of garments intended to be manufactured and the number actually manufactured.

75.17 A registrant shall retain in his records a copy of any bill of entry, SAD declaration or transfer form in respect of goods obtained by him under rebate of duty, together with any clearance documents in respect of such goods, as well as any other documents required in rules 75.14, 75.15 and 75.16, for at least five

years after the stocks of the goods to which such bill of entry, SAD declaration, transfer form or clearance documents relate have been exhausted.

75.18 A registrant who obtains goods for use under rebate of duty shall, unless he is in possession of a valid bill of entry or transfer form, store such goods separately from other goods in his rebate store and shall not use such goods until the permission of the Controller has been obtained.

75.19 A registrant shall complete invoices, consecutively numbered and in duplicate sets, in respect of all disposals of rebated goods and goods manufactured from such rebated goods and shall retain such duplicate invoices in his records.

75.20 A registrant shall keep the records specified in these rules in a safe place and such records shall be made available to the Controller on demand.

Entry of goods under Schedule No. 3 or 4

75.21 Where any goods are entered under Schedule No. 3 or 4, the rebate user or his or her authorised agent must submit to the Controller –

- (a) a form SAD 500;
- (b) the following declaration by the rebate user on his or her own letter-headed paper:

Declaration:

I,for rebate user, hereby undertake to comply with the provisions of the Customs and Excise Act, 1964, in respect of the goods as described herein.

For rebate user:.....Date:.....

75.22 The licensee of any customs and excise storage warehouse may, in the case of imported unpacked spirits, deduct 0,25 per cent as contemplated in section 75(18)(b)(ii) from the quantity entered for storage in such warehouse.

75.23 The deductions specified in section 75(18)(b)(i) and (ii) are provided for in the rules for section 19A.

Keeping of a register by rebate users of undenatured or partially denatured ethyl alcohol (spirits) for industrial use or for the manufacture of other non liquor products in terms of rebate item 621.08 of Schedule No. 6

- 75.24 (a) For the purpose of this rule -
- (i) “rebate user” means a person who is registered and whose premises are registered for using undenatured or partially denatured spirits for industrial use or for the manufacturer of other non-liquor products in terms of item 621.08 of Schedule No. 6.
 - (ii) such spirits must be supplied and delivered on form DA 33A as contemplated in the rules numbered 19A3 or on form DA 62.

- (b) A rebate user must keep a register in which is recorded at least the following:

RECEIPTS OF SPIRITS, WHETHER UNDENATURED OR PARTIALLY DENATURED

- The name, warehouse number and client code of the licensee of the customs and excise warehouse (VMP or SOS) from whom the spirits were received
- The DA33A number and date and invoice number and date
- Quantity received, and whether undenatured or partially denatured
- The rebate item (as reflected on form DA 33A)

USE OF SPIRITS

- Description of product manufactured
- Quantity of spirits used
- Quantity of goods manufactured
- The manufacturing formula, including the ratio of spirits in relation to the end product
- A cross-reference to the record on form DA 133 of each manufacturing or other operation

STOCK FIGURES OF SPIRITS

- Monthly stock figures, total quantities of spirits received, used and in stock

SALES OR REMOVALS OF SPIRITS

- Sales invoice or delivery note numbers and dates of manufactured goods sold or otherwise disposed of
- Numbers and dates of forms DA 62 in respect of such spirits removed to other rebate users

- (c) Such register and other documents to which it relates (including copies of forms DA 33A, DA 62 and the record on form DA 133, must be kept together with other books, accounts and documents contemplated in rule 59A.09(2) at the premises of the rebate user or any other place approved by the Controller.

RULES FOR SECTION 76 OF THE ACT

General refunds in respect of imported or excisable goods

- 76.01 Any application for a refund or payment in terms of section 76 shall be submitted to the Controller in the prescribed form (form DA 66) together with all necessary documents relating to such application.
- 76.02 Refund applications shall be lodged with the Controller at whose office the duty involved was originally paid, except in respect of items 522.02 and 522.03 which shall be lodged as indicated in Note 2 to item 522.00.
- 76.03 Where, for purposes of applying for a refund of duty, an examination without prejudice of the goods concerned is required, the provisions of rule 40.01 shall be complied with.
- 76.04 (a) Notwithstanding rule 76.01, for the purposes of a refund application contemplated in section 76(4), a voucher of correction as provided for in section 40(3)(a)(i)(bb)(A) reflecting a refund amount submitted manually or electronically with a refund indicator shown thereon shall be regarded as an application for refund of that amount.
- (b)(i) The form CR 1, obtainable from the SARS website, together with all documents necessary to prove that the refund is due must be submitted in paper format or by facsimile transmission or electronically to reach the Commissioner during the official hours of attendance prescribed in item 201.10 of the Schedule to the Rules at the place specified and within the time indicated in a request by SARS for the CR 1 and necessary documents to be submitted.
- (ii) The application shall only be regarded as validly submitted on receipt of a properly completed form CR 1 and the necessary documents proving that a refund is due.
- (iii) If form CR 1 and the necessary documents are not received within the time specified in subparagraph (i), the voucher of correction received will be electronically cancelled by SARS and a fresh voucher of correction must thereafter be submitted if it is intended to renew the application for the refund.

CHAPTER XA

INTERNAL ADMINISTRATIVE APPEAL; ALTERNATIVE DISPUTE RESOLUTION;
DISPUTE SETTLEMENT

PART A: INTERNAL ADMINISTRATIVE APPEAL

RULES FOR SECTION 77H OF THE ACT

Definitions

77H.01 In these rules, any meaning ascribed to any word or expression in the Act, shall bear the meaning so ascribed and, unless the context otherwise indicates -

“appeal” means an internal administrative appeal contemplated in Part A of Chapter XA of the Act and these rules;

“appellant” means any person contemplated in section 77B who lodges an appeal and includes any duly authorised representative of such person;

“branch manager” means the officer in charge of a branch office and may include a Controller;

“branch office” means an office of the South African Revenue Service (SARS), excluding the Head Office, for which hours of attendance is prescribed in these rules;

“collective amount” means the total amount paid or payable, as calculated by SARS in terms of this Act and any relevant provisions of the Value Added Tax Act, 1991, to which an appeal relates as contemplated in rules 77H.06, 77H.07, 77H.09, 77H.10, 77H.11, 77H.12 and 77H.13;

“committee member” means any officer nominated by the chairperson of an appeal committee to be a member of that appeal committee and who serves or may serve on that appeal committee when an appeal is considered;

“deliver” means –

- (a) handing the relevant document to the relevant person;
- (b) sending the relevant document to the relevant person by registered post;

- (c) telefaxing the relevant document to the relevant person;
- (d) transmitting the relevant document to the relevant person by electronic

means:

Provided that in the case of paragraphs (c) and (d), the original, signed document must be handed to that person or sent by registered post to that person within ten days after it being so telefaxed or transmitted by electronic means;

“documents” includes documents as contemplated in section 101 of the Act;

“excise unit” means the unit dealing with excise matters located at the Head Office of the South African Revenue Service (SARS) and includes officers stationed at other centres who form part of that unit;

“General Manager: Enforcement and Risk” means an officer acting under a delegation from or under the control or direction of the Commissioner and who is charged with the operational management of the enforcement and risk division;

“General Manager: Operations Support” means an officer acting under a delegation from or under the control or direction of the Commissioner and who is charged with the operational management of to the operational support division;

“Head: Customs Operations Unit” means an officer acting under a delegation from or under the control or direction of the Commissioner and who is charged with the operational management of the customs operations unit;

“Head of Excise Product and Process” means an officer acting under a delegation from or under the control or direction of the Commissioner and who is charged with the operational management of the excise division;

“Operations Legal Support Division” means a division within the South African Revenue Service (SARS) Head Office;

“Regional Operations Manager” means an officer acting under a delegation from or under the control or direction of the Commissioner and who is charged with the operational management over any number of branch offices situated within a particular region;

“regional office” means the office of a regional operations manager;

“tariff or valuation determination” means a determination contemplated in section 47(9), 65 or 69 of the Act;

“the Act” means the Customs and Excise Act, 1964.

Delivery of applications, notifications and other communications

77H.02 All communications for the purpose of any procedure contemplated in these rules must be delivered.

Request for reasons

- 77H.03
- (a) Any person or his or her duly authorised representative contemplated in section 77B may by written notice delivered to the Commissioner within 30 days after the date of a decision, request the Commissioner to furnish reasons for the decision. The written notice must specify the address at which the person will accept notice and delivery of such reasons and any documents relating thereto.
 - (b) Upon request by the person concerned, the period prescribed in paragraph (a) may be extended by the Commissioner for a period of not more than 60 days where the Commissioner is satisfied that reasonable grounds exists for the delay in complying with that period.
 - (c) Where in the opinion of the Commissioner adequate reasons have already been provided, the Commissioner must within 30 days after receipt of the request contemplated in paragraph (a), notify the person concerned accordingly in writing which notice must refer to the documents wherein such reasons were provided.
 - (d) Where in the opinion of the Commissioner adequate reasons have not yet been provided, the Commissioner must provide written reasons for the decision within 60 days after receipt of the request contemplated in paragraph (a):
Provided that where in the opinion of the Commissioner more time is required due to the complexity of the matter, the principle or the amount involved or any other circumstances deemed reasonable by the Commissioner, the Commissioner must, before expiry of that 60 day

period, inform the person concerned that written reasons will be provided not later than 45 days after the date of expiry of that first 60 day period.

Submission of appeals

- 77H.04 (a) An appellant who is aggrieved by a decision of an officer may appeal against such a decision to an appeal committee authorised in these rules to consider such an appeal, or to the Commissioner where—
- (i) the appellant so requests; and
 - (ii) an appeal committee is not authorised by rule to consider such an appeal.
- (b) Any such appeal must –
- (i) be submitted on a duly completed form DA 51;
 - (ii) be in writing, specifying in detail the grounds upon which it is made;
 - (iii) specify an address at which the appellant will accept delivery of the Commissioner's or an appeal committee's decision in respect of such appeal and any other document or communication relating to the appeal;
 - (iv) be signed by the appellant: Provided that, where the appellant is unable to personally sign the appeal, the person signing on behalf of the appellant must state in an annexure to the appeal –
 - (aa) the reason why the appellant is unable to sign the notice of appeal form;
 - (bb) that he or she has the necessary power of attorney to sign on behalf of the appellant; and
 - (cc) that the appellant is aware of the submission of the appeal and agrees with the grounds thereof;
 - (v) be delivered within 30 days after –
 - (aa) in the case where the appellant has requested reasons under rule 77H.03, either the date of the notice by the Commissioner that adequate reasons have been provided or the date that reasons were furnished by the Commissioner, as the case may be; or
 - (bb) in any other case, the date of the notice of the decision; and
 - (vi) be delivered to the office from which the notice of the decision was issued.

Validity of appeals

- 77H.05 (a) Where an appellant delivers an appeal that does not comply with the requirements of rule 77H.04 (b)(i), (ii), (iii) or (iv) the Commissioner may inform the appellant by notice within 60 days after receipt of appeal that he or she does not accept it as a valid appeal: Provided that the appellant may within ten days after delivery of such notice, or such a longer period as the Commissioner may agree to, deliver an amended appeal.
- (b) Where the appellant has failed to deliver his or her appeal to the office referred to in rule 77H.04 (b)(vi), the document delivered in terms of rule 77H.04 (b)(i) to (v) will be deemed to be invalid.
- (c) Where the Commissioner is satisfied that the appellant has not furnished all the information, documents or things required to decide the appeal, the Commissioner must, not later than 60 days after receipt of the appeal, notify the appellant accordingly and request him or her to deliver the information, documents or things as specified in that notice.
- (d) The appellant must, within 60 days after delivery of the notice contemplated in paragraph (c), deliver all information, documents or things requested in that notice and as specified in that notice to the Commissioner.
- (e) The Commissioner may extend the period in paragraph (d) by not more than 30 days where the Commissioner is satisfied that reasonable grounds exist on which the appellant is not able to deliver the information, documents or things specified by the Commissioner within that period and the appellant has, before the expiry of that period, requested the Commissioner in writing that the period be extended, stating the grounds for the failure to provide such information, documents or things within that period.

Consideration of appeals

- 77H.06 (a) Where an appeal is to be considered by the Commissioner, the Commissioner must on receipt of a notice of appeal contemplated in rule 77H.04, or the information contemplated in rule 77H.05 (d), consider and either allow or disallow, in whole or in part, the appeal and must, subject to paragraph (b), notify the appellant of the decision in writing –

- (i) in the case where the Commissioner requested information, documents or things under rule 77H.05(c), within a further 60 days after receiving such information documents or things; or
 - (ii) in any other case, within a further 90 days after the date of the receipt of an appeal as contemplated in rule 77H.04 or amended appeal in terms of the proviso to rule 77H.05(a), as the case may be.
- (b) Where, in the opinion of the Commissioner, more time is required due to the complexity of the matter, the principle or amount involved, or any other circumstances deemed reasonable by the Commissioner, the Commissioner must, before expiry of the periods prescribed in paragraph (a), inform the appellant that he or she will decide on the appeal within such longer period which -
 - (i) in the case of rule 77H.06(a)(i), may not exceed 60 days; or
 - (ii) in the case of rule 77H.06(a)(ii), may not exceed 90 days.
- (c) Where an appeal committee is authorised by rule to decide an appeal, the provisions of rule 77H.05 and paragraphs (a) and (b) shall apply *mutatis mutandis* to the chairperson of that appeal committee.
- (d) The Commissioner or the chairperson of an appeal committee authorised to decide an appeal must, in the case of an appeal that does not have the outcome desired by the appellant, inform the appellant of his or her further rights regarding alternative dispute resolution and the institution of judicial proceedings.

Tariff and valuation appeals

- 77H.07
- (a) An appeal against a tariff or valuation determination of an officer stationed at a branch office, must be delivered to the branch office concerned.
 - (b) An appeal against any tariff or valuation determination of an officer -
 - (i) stationed at a branch office, may only be considered and decided by an authorised officer of the tariff and valuation division within the Operations Legal Support Division ;
 - (ii) employed within the Operations Legal Support Division, may only be considered and decided by the customs national appeal committee

- (c) The provisions of rule 77H.04, 77H.05 and 77H.06 (a), (b) and (d) shall apply *mutatis mutandis* to any such appeal considered by the Operations Legal Support Division.

Appeal committees

General

- 77H.08
- (a) Every appeal committee must have a chairperson who must be –
- (i) in the case of a branch office appeal committee, the Branch Manager in charge of that office;
 - (ii) in the case of a regional office appeal committee, the Regional Operations Manager;
 - (iii) in the case of a customs operations appeal committee, the Head: Customs Operations Unit;
 - (iv) in the case of an enforcement and risk appeal committee, an officer nominated by the General Manager: Enforcement and Risk;
 - (v) in the case of the customs national appeal committee, an officer nominated by the General Manager: Operations Support.
- (b) The persons referred to in subparagraphs (i), (ii) and (iii) may temporarily nominate any other officer as chairperson of their respective appeal committees in instances where he or she is unable to attend an appeal committee meeting.
- (c) The chairperson of an appeal committee must nominate members of the committee from officers under his or her control and must ensure that those officers have the necessary knowledge and skills to consider and deal properly with any appeal brought before that committee.
- (d) No appeal committee may consist of less than four committee members and the chairperson of that committee.
- (e) An appeal committee may consist of more than four committee members, provided that the total number of committee members when taken together with the chairperson of that committee results in an uneven number of persons.

- (f) The decision of any appeal committee authorised to decide an appeal will be final unless the Commissioner amends the decision or withdraws it and make a new decision as contemplated in section 77F(1)(c) of the Act.
- (g) An officer whose decision is being appealed against may not participate in any deliberation on the merits of the appeal or in any discussions to decide the outcome of the appeal.

Branch Office Appeal Committees

- 77H.09
- (a) A branch office appeal committee must be established by the Branch Manager at each branch office that has a staff complement of 12 or more officers stationed at that office.
 - (b) A branch office appeal committee may, subject to paragraph (c) and rule 77H.07, consider and decide an appeal against any decision taken by an officer stationed at the same branch office where the branch office appeal committee has been established as contemplated in paragraph (a).
 - (c) A branch office appeal committee may not consider any appeal –
 - (i) where the collective amount to which the appeal relates exceeds R5 000 000;
 - (ii) against a decision of a Branch Manager.

Regional Office Appeal Committees

- 77H.10
- (a) The Regional Operations Manager must establish a regional office appeal committee at each regional office to consider and decide, subject to rule 77H.07 any appeal against -
 - (i) the decision of any officer stationed at a branch office at which no branch office appeal committee has been established as contemplated in rule 77H.09(a),
 - (ii) a decision of -
 - (aa) a Branch Manager; or
 - (bb) an officer stationed at a regional office,

where the collective amount in respect of any such appeal does not exceed R8 000 000.

- (b) A regional office appeal committee may not consider any appeal against a decision of a Regional Operations Manager.

Customs Operations Appeal Committee

- 77H.11
- (a) The Head: Customs Operations Unit must establish a customs operations appeal committee at the Head Office of the South African Revenue Service (SARS).
 - (b) A customs operations appeal committee may consider and decide, subject to rule 77H.07, any appeal -
 - (i) against a decision of a Regional Operations Manager; or
 - (ii) against a decision of an officer employed within the Customs Operations Unit or the excise unit,where the collective amount in respect of any such appeal does not exceed R10 000 000.
 - (c) A customs operations appeal committee may not consider any appeal against a decision of the Head: Customs Operations Unit or the Head of Excise Product and Process.

Enforcement and Risk Appeal Committee

- 77H.12
- (a) The General Manager: Enforcement and Risk must establish an enforcement and risk appeal committee.
 - (b) An enforcement and risk appeal committee may, subject to rule 77H.07, consider and decide an appeal against a decision of any officer acting under the control or direction of the General Manager: Enforcement and Risk.
 - (c) An enforcement and risk appeal committee may not consider any appeal against a decision of the General Manager: Enforcement and Risk.

Customs National Appeal Committee

- 77H.13
- (a) The General Manager: Operations Support must establish a customs national appeal committee at the Head Office of the South African Revenue Service (SARS).
 - (b) The customs national appeal committee must consider and decide any appeal -
 - (i) against a decision of –
 - (aa) the Head: Customs Operations Unit ;
 - (bb) the Head of Excise Product and Process;
 - (cc) an officer employed within the tariff or valuation division in Head Office; or
 - (dd) the General Manager: Enforcement and Risk.
 - (ii) where the collective amount to which the appeal relates exceeds R10 000 000; or
 - (iii) any such other appeal as the Commissioner may direct.

Records of proceedings

- 77H.14 The Commissioner or the chairperson of any appeal committee, as may be applicable, must ensure that –
- (a) the committee’s deliberations and decisions are recorded;
 - (b) a copy of the letter informing the appellant of the decision of the committee is retained; and
 - (c) copies of all the documentation contemplated in paragraphs (a) and (b) are filed for record purposes.”

Transitional arrangements

- 77H.15 These rules shall not apply to any –
- (a) appeal lodged before 4 June 2007;
 - (b) decision by an officer taken prior to 4 June 2007.

PART B: ALTERNATIVE DISPUTE RESOLUTION

RULES FOR SECTION 77I OF THE ACT

Definitions

77I.01 In these rules, any meaning ascribed to any word or expression in the Act, shall bear the meaning so ascribed and, unless the context otherwise indicates -

“aggrieved person” - means any person who makes use of the dispute resolution procedures provided for in these rules and includes any duly authorised representative of such person;

“deliver” means -

- (a) handing the relevant document to the relevant person;
- (b) sending the relevant document to the relevant person by registered post;
- (c) telefaxing the relevant document to the relevant person; or
- (d) transmitting the relevant document to the relevant person by electronic means:

Provided that in the case of paragraphs (c) and (d), the original, signed document must be handed to that person or sent by registered post to that person within ten days after it being so telefaxed or transmitted by electronic means;

“documents” includes documents as contemplated in section 101 of the Act;

“the Act” means the Customs and Excise Act, 1964.

Application for alternative dispute resolution after internal administrative appeal

77I.02 Any person who is dissatisfied with a decision contemplated in section 77B(2) of the Act may apply for alternative dispute resolution.

77I.03 An application for alternative dispute resolution must be submitted to the Commissioner or to the chairperson of an appeal committee, as applicable, on form DA 52 and must, unless the Commissioner agrees to extend the period, be delivered within 30 days from the date of the notice informing the appellant in an internal administrative appeal of the decision of the Commissioner or the appeal committee.

77I.04 The Commissioner must, within 20 days of receipt of an application for alternative dispute resolution, inform the applicant by notice whether the matter is appropriate for alternative dispute resolution and may be resolved by way of the procedures contemplated in these rules.

Alternative dispute resolution as an alternative to judicial proceedings

- 77I.05 Where a person has delivered a notice to the Commissioner in terms of section 96(1) of the Act and the Commissioner is of the opinion that the matter is appropriate for alternative dispute resolution he or she must inform that person within ten days after the receipt of such notice.
- 77I.06 (a) Where a person does not agree to alternative dispute resolution he or she must notify the Commissioner within 10 days after the date of the notice referred to in rule 77I.05.
- (b) Where a person agrees to alternative dispute resolution he or she must deliver a duly completed form DA 52 to the Commissioner in the manner prescribed in the rules for section 96 of the Act, within ten days after the date of the notice by the Commissioner referred to in rule 77I.05.
- 77I.07 Where a duly completed form DA 52 is not delivered within ten days after the date of the notice by the Commissioner referred to in rule 77I.05, the matter may not be dealt with under the procedures contemplated in these rules.

The terms governing the alternative dispute resolution

- 77I.08 The terms governing the alternative dispute resolution proceedings are set out in Schedule A to these rules as reproduced on the reverse of form DA 52.
- 77I.09 A person who applies for alternative dispute resolution on form DA 52 must accept in writing the terms governing alternative dispute resolution as set out in Schedule A to these rules by signing the declaration on the reverse side of the form before alternative dispute resolution may take place.

Period of dispute resolution

- 77I.10 The alternative dispute resolution proceedings must commence within 20 days after the date of the notice by the Commissioner informing the applicant that the matter is appropriate for alternative dispute resolution as contemplated in rule 77I.04 or receipt of an application form DA 52 by the Commissioner as contemplated in rule 77I.06, as the case may be.

- 77I.11 The alternative dispute resolution proceedings must, unless the Commissioner extends the period, end not later than 90 days after the date of the notice by the Commissioner informing the applicant that the matter is appropriate for alternative dispute resolution as contemplated in rule 77I.04 or receipt of an application form DA 52 by the Commissioner as contemplated in rule 77I.06.

The facilitator

- 77I.12 (a) The Commissioner may appoint any person, including a person employed by SARS, to facilitate the alternative dispute resolution proceedings.
- (b) Any person so appointed to facilitate the proceedings will be bound to the code of ethics set out in Schedule B to these rules.
- 77I.13 The person appointed to facilitate may, if the Commissioner and the aggrieved person agree thereto at the commencement of the proceedings, be requested to make a recommendation at the conclusion of the proceedings if no agreement or settlement as contemplated in rule 77I.18 or 77I.19 is ultimately reached between the parties, which recommendation will be admissible during any subsequent proceedings including court proceedings.

Proceedings

- 77I.14 The alternative dispute resolution proceedings will be conducted in accordance with the terms set out in Schedule A to these rules.
- 77I.15 During the alternative dispute resolution proceedings the aggrieved person -
- (a) may be accompanied by any representative of his or her choice; and
- (b) must be personally present unless the facilitator, in exceptional circumstances, allows the aggrieved person to be represented in his or her absence by a duly authorized representative of his or her choice.

Reservation of rights

- 77I.16 Subject to section 4 (3) of the Act and rule 77I.13, the proceedings in terms of this rule shall not be one of record, and any representation made or document tendered in the course of the proceedings -
- (a) is made or tendered without prejudice; and
- (b) may not be tendered in any subsequent proceedings as evidence by any other party, except -

- (i) with the knowledge and consent of the party who made the representation or tendered the document during the proceedings in terms of this rule;
- (ii) where such representation or document is already known to, or in the possession of, that party; or
- (iii) where such representation or document is obtained by that party otherwise than in terms of the proceedings in terms of this rule.

77I.17 No person may -

- (a) subject to the circumstances listed in paragraph (b)(i) to (iii) of rule 77I.16, *subpoena* any person involved in the alternative dispute resolution proceedings in whatever capacity to compel disclosure of any representation made or document tendered in the course of the proceedings; or
- (b) *subpoena* the facilitator of the alternative dispute resolution proceedings to compel disclosure of any representation made or document tendered in the course of the proceedings.

Agreement or settlement

77I.18 A dispute which is subject to the procedures in terms of this rule may be resolved by agreement whereby either the Commissioner or the aggrieved person accepts, either in whole or in part, the other party's interpretation of the facts or the law applicable to those facts or both.

77I.19 Where -

- (a) the Commissioner and an aggrieved person are, despite all reasonable efforts, unable to resolve the dispute as contemplated in rule 77I.18; and
- (b) the Commissioner personally or any official delegated by the Commissioner in terms of section 77N of the Act, is of the opinion that the circumstances of the matter comply with the requirements contemplated in section 77M of the Act,

the parties may attempt to settle the matter in accordance with the provisions of Part C of Chapter XA of the Act.

77I.20 Where an agreement contemplated in rule 77I.18 or a settlement contemplated in rule 77I.19 is concluded, the Commissioner must give effect to that agreement or settlement, as the case may be, and notify the aggrieved person thereof within a period of 60 days after the date of the conclusion thereof.

- 77I.21 Where an agreement contemplated in rule 77I.18 or a settlement contemplated in rule 77I.19 can not be achieved, or where the proceedings are terminated in the manner provided for in paragraph 7(g) of Schedule A to the rules, the Commissioner must inform the aggrieved person of his or her further rights regarding the institution of judicial proceedings within 10 days of the conclusion or termination of such proceedings.
- 77I.22 Any agreement or settlement reached through the alternative dispute resolution process has no binding effect in respect of any other matters relating to that aggrieved person not actually covered by the agreement or settlement, or any other person.

Reporting requirements

- 77I.23 Any -
- (a) agreement in terms of rule 77I.18 whereby a dispute which is subject to the procedures in terms of this rule is resolved in whole or in part, must be reported internally in the manner as may be required by the Commissioner.
 - (b) settlement of a dispute in terms of rule 77I.19 must be reported in accordance with the provisions of Part C of Chapter XA of the Act.

SCHEDULE A

THE TERMS OF ALTERNATIVE DISPUTE RESOLUTION (“ADR”)

1. Main Rule

ADR is only available if these terms are accepted. Both the Commissioner and the aggrieved person have to agree to the ADR process for any agreement or settlement to have any effect.

2. Who may initiate ADR?

ADR may be initiated by—

- (a) a person dissatisfied with a decision of the Commissioner or an appeal committee under the internal administrative appeal procedure contemplated in Part A of Chapter XA of the Act; or

- (b) the Commissioner subsequent to the receipt of a notice in terms of section 96(1) of the Act where he or she is of the opinion that the matter is appropriate for ADR.

3. ADR following the disallowance of an internal administrative appeal

- (a) A person who appealed against any decision of the Commissioner and whose appeal has been disallowed in whole or in part by the Commissioner or an appeal committee under the internal administrative appeal procedure contemplated in Part A of Chapter XA of the Act, may apply for ADR.
- (b) An application for alternative dispute resolution must, unless the Commissioner agrees to extend the period, be submitted to the Commissioner on form DA 52 within 30 days from the date of the notice informing the appellant that his or her appeal has been disallowed.
- (c) The Commissioner must, within 20 days of receipt of an application for alternative dispute resolution, inform the applicant by notice whether the matter is appropriate for alternative dispute resolution.

4. ADR as an alternative to judicial proceedings

Where a person has delivered a notice to the Commissioner in terms of section 96(1) of the Act and the Commissioner is of the opinion that the matter is appropriate for alternative dispute resolution he or she must inform that person within ten days of the receipt of such notice.

5. Acceptance of ADR

- (a) Where a person referred to in paragraph 4 does not agree to alternative dispute resolution he or she must notify the Commissioner within ten days from the date of the notice by the Commissioner.
- (b) Where a person referred to in paragraph 4 agrees to alternative dispute resolution he or she must deliver a form DA 52 to the Commissioner within ten days of the date of the notice by the Commissioner.

6. How must application be made for ADR?

Application for ADR must be made on a form DA 52 which must be duly completed and supported by all relevant documents and then delivered -.

- (a) in the circumstances contemplated in paragraph 3, to the Commissioner or the chairperson of the appeal committee, as applicable;

- (b) in the circumstances contemplated in paragraph 4, as prescribed in the rules for section 96 of the Act.

7. The facilitator

- (a) The Commissioner must, within 15 days after he or she has notified the applicant that the dispute may be referred to ADR, or within 15 days after receipt of an application form DA 52, as the case may be, appoint a facilitator to facilitate the ADR process.
- (b) The Commissioner must inform the aggrieved person of who has been appointed as facilitator.
- (c) The facilitator will, in the normal course, be an appropriately qualified officer of SARS and will be bound by a Code of Conduct.
- (d) The facilitator's objective is to seek a fair, equitable and legal resolution of the dispute between an aggrieved person and the Commissioner.
- (e) The facilitator cannot make a ruling or decision which binds the Commissioner or an aggrieved person nor may he or she compel that person and the Commissioner to settle the dispute.
- (f) At the conclusion of the ADR process the facilitator must record the terms of any agreement or settlement reached by the parties, or, if no agreement or settlement is reached, he or she shall record that fact.
- (g) The facilitator has the authority to summarily terminate the process of dispute resolution without prior notice if -
 - (i) any person fails to attend the meeting referred to in paragraph 9;
 - (ii) any person fails to carry out a request made in terms of paragraph 8;
 - (iii) he or she is of the opinion that the dispute cannot be resolved;
 - (iv) either of the parties agree that the issues in dispute cannot be reconciled in the resolution process; or
 - (v) for any other appropriate reason.

8. Determining the process

The facilitator must, after consulting the aggrieved person and the officer(s) or appeal committee of SARS responsible for the decision under dispute -

- (a) determine the procedure to be adopted in the dispute resolution process;
- (b) determine a place, date and time at which the parties shall convene the ADR meeting; and

- (c) notify each party in writing which written submissions or any other document should be furnished or exchanged (if this is required at all), and when the submissions or documents are required.

9. ADR Meeting

A meeting between the parties to the dispute must be held for the purpose of resolving the dispute by consent, within 20 days of the appointment of the facilitator, or within such further period as the Commissioner and the aggrieved person may agree.

10. Rules for the ADR Meeting

- (a) The aggrieved person must be personally present during the ADR meeting and may be accompanied by a representative of his or her choice.
- (b) The facilitator may, in exceptional circumstances, excuse the aggrieved person from personally attending the meeting in which event he or she may be represented in their absence by a representative of their choice.
- (c) The meeting must be concluded -
 - (i) at the instance of the facilitator; or
 - (ii) after the parties agree that the meeting shall be concluded.
- (d) If both parties and the facilitator agree, the meeting may resume at any other place, date or time set by the facilitator.
- (e) The parties may for the purpose of resolving an issue in dispute, and only if the facilitator agrees, lead or bring witnesses in the ADR process.
- (f) The facilitator may require either party to produce a witness to give evidence.
- (g) At the conclusion of the meeting the facilitator must record -
 - (i) all issues which were resolved (through the ADR process);
 - (ii) any issue upon which agreement or settlement could not be reached; and
 - (iii) any other point which the facilitator considers necessary.
- (h) The facilitator must deliver a report to the aggrieved person and the Commissioner's designated representative within ten days of the cessation of the ADR process.
- (ij) The facilitator may, if requested at the commencement of the ADR process, make a recommendation at the conclusion of the proceedings if no agreement or settlement is ultimately reached between the parties.

11. Reservations of rights

- (a) The proceedings may not be electronically recorded, and any representations made in the course of the meeting will be without prejudice.

- (b) Any representation made or document tendered in the course of the dispute resolution proceedings may not be tendered in any subsequent proceedings as evidence by any other party, except in the circumstances contemplated in rule 77I.16(b).
- (c) Neither party, except in the circumstances contemplated in rule 77I.16(b), may *subpoena* any person involved in the alternative dispute procedure in order to compel disclosure of any representation made or documentation produced in the course of the ADR process. The facilitator may not be *subpoenaed* under any circumstances.
- (d) Any recommendation made by the facilitator in terms of paragraph 10(ij), will be admissible during any subsequent proceedings including court proceedings.

12. Agreement or Settlement

- (a) Any agreement or settlement reached between the parties must be recorded in writing and must be signed by the aggrieved person and by the Commissioner's designated official.
- (b) Should the parties not resolve all issues in dispute, the agreement or settlement in paragraph (a) must stipulate those areas in dispute –
 - (i) that are resolved; and
 - (ii) that could not be resolved and on which the aggrieved person may institute judicial proceedings in a competent Court.
- (c) Any agreement or settlement reached through the ADR process has no binding effect in respect of any other matters relating to that aggrieved person not actually covered by the agreement or settlement, or any other person.

13. Days

A day has the meaning as defined in section 77A(1) of the Act.

SCHEDULE B

CODE OF CONDUCT FOR FACILITATOR

The terms of this Code of Conduct will be binding upon every person appointed as a facilitator (“**the facilitator**”) by the Commissioner to facilitate the alternative dispute resolution process (“**ADR**”) as contemplated in rule 77I.12 of the rules promulgated under the provisions of section 77I of the Customs and Excise Act, 1964 (Act No. 91 of 1964).

1. Professionalism

Every facilitator is duty bound to build the integrity, fairness and efficacy of the ADR process and to preserve the independence and impartiality of the facilitator.

2. Every facilitator must –

- (a) conduct himself or herself with honesty and integrity and with courtesy to all parties;
- (b) act in good faith and with impartiality to all parties;
- (c) either decline an appointment or obtain technical assistance when a case is outside his or her field of competence;
- (d) duly act within the prescripts of the facilitation process and the law;
- (e) respect time and attempt to bring the dispute to an expeditious conclusion;
- (f) resist the exercise of improper influence from any person outside the facilitation process; and
- (g) continuously seek to upgrade his or her proficiency in the handling of customs disputes, skill and knowledge.

3. Conflict of interest

- (a) A facilitator must immediately disclose to the parties and to the Commissioner any fact that is likely to either affect his or her impartiality or create the impression that his or her impartiality is affected.
- (b) A facilitator should decline an appointment if a conflict of interest exists that will give rise to bias.
- (c) If one of the parties requests the facilitator to recuse him or herself, the facilitator may do so if it will facilitate the resolution of the dispute.
- (d) The Commissioner may not remove a facilitator once he or she has commenced with the ADR process, save by the request of the facilitator or by agreement between both parties.

4. Confidentiality

- (a) Information disclosed to the facilitator in confidence by a party during the course of the facilitation should be kept by facilitators in the strictest confidence and should not be disclosed to the other party unless authority is obtained for such disclosure from the party that disclosed the information.
- (b) The proceedings and outcome of all processes and related documentation will remain confidential, unless all the parties to the process agree otherwise or disclosure is allowed by any law.

5. Conclusion of facilitation

Facilitators should reduce all agreements, settlement or a recommendation (if requested by both parties) to writing in a clear and concise format.

6. Quality Control

- (a) The Commissioner has the right to request parties to submit evaluations of the facilitation process, including an assessment of the facilitator, from any party, which evaluations the Commissioner is entitled to treat confidentially.
- (b) The Commissioner may remove a facilitator from the list of facilitators for good reason, which includes the incompetence of the facilitator.

CHAPTER XI

PENAL PROVISIONS

No rule promulgated.

(See rules 120.10 and 120.11)

CHAPTER XI

RULES FOR SECTION 96 OF THE ACT

Definitions

96.01 In these rules and any form to which the rules relate, any meaning ascribed to any word or expression in the Act, shall bear the meaning so ascribed and, unless the context otherwise indicates -

“deliver” means -

- (a) handing the notice to the Manager: Litigation (Customs) prescribed in rule 96.02(b)(ii);
- (b) sending the notice to the Manager: Litigation (Customs) by registered post to the address prescribed;
- (c) telefaxing the notice to the Manager: Litigation (Customs); or
- (d) transmitting the notice to the Manager: Litigation (Customs) by electronic means:

Provided that, in the case of paragraphs (c) and (d), the original signed document must be handed to the Manager: Litigation (Customs) or sent by registered post to the Manager: Litigation (Customs) within ten days of it being so telefaxed or transmitted by electronic means.

Completion and delivery of form DA 96

96.02 (a) Every person who intends to institute legal proceedings as contemplated in section 96 must deliver, within the period prescribed in subsection (1)(a), a duly completed form DA 96 (Notice in terms of section 96(1)(a) of the Customs and Excise Act, 1964), to the Commissioner informing him or her of the intended litigation.

- (b) Every form referred to in paragraph (a), must -
- (i) be duly completed and signed by the person instituting the legal proceedings (the litigant);
 - (ii) if delivered by hand, be handed to the Manager: Litigation (Customs) at 271 Bronkhorst Street, First floor Khanyisa, Nieuw Muckleneuk, Pretoria or to such a person in that office as he or she may authorise in writing for that purpose.
 - (iii) if delivered by post, be sent by registered post to the Manager: Litigation (Customs), Private Bag X923, Pretoria, 0001.”

Transitional arrangements

96.03 Any notice contemplated in section 96 must, if delivered on or after 15 June 2006, be in the form and delivered in the manner specified in these rules.

CHAPTER XII

GENERAL

RULES FOR SECTION 97 OF THE ACT

Business in customs and excise offices

- 97.01 The agent of any importer, exporter, manufacturer or other principal who attends at any customs and excise office in connection with the clearance of goods or any other official business shall be conversant with the requirements of the administration in respect of such business and shall be able to reply to such questions or to furnish such information as the Controller may put to him or require of him, but the Controller may demand the personal attendance of any person or any principal in connection with any official matter.
- 97.02 The conduct of any business in any customs and excise office shall be in accordance with such instruction as the Controller may issue and any person attending at such customs and excise office shall be subject to such instructions.

- 97.03 The Controller may refuse access to his office for the purpose of conducting any customs or excise business if such person has been convicted of an offence under the Act or an offence involving dishonesty.

RULE FOR SECTION 99 OF THE ACT

Carriers subject to the provisions of section 99

- 99.01 Any carrier who for his own account brings into or takes out goods from the Republic by road or transports goods overland through the Republic by road is subject to the provisions of section 99(3).

RULES FOR SECTION 101 OF THE ACT

Books, accounts and documents to be kept by a person carrying on business in the Republic

- 101.01 Any person carrying on any business in the Republic shall, unless otherwise authorised by the Controller, keep within the Republic on the premises where such business is conducted and in one of the official languages reasonable and proper books, accounts and documents relating to his transactions comprising at least the following –
- (a) in the case of imported goods: copies of the relative import bills of entry, bills of lading or other transport documents, suppliers invoices, packing lists, bank stamped invoices, payment advices and other documents required in terms of section 39 of the Act;
 - (b) in the case of excisable and fuel levy goods not being distillate fuel referred to in subparagraph (c): books, accounts and documents as the Controller may require;
 - (c) in the case of distillate fuel of item 670.04; the documents specified in the items; and

- (d) in the case of exported goods; copies of the relative export bills of entry, invoices, bills of lading and other transport documents.

Such person shall in all instances keep available such books, accounts and documents for a period of at least five years from date of importation, exportation, manufacturing, purchase, sale or use of any goods for inspection by an officer: Provided that in the case of goods stored in a customs and excise warehouse the period shall be extended until all the relevant goods have been duly cleared in terms of section 20(4) of the Act and have in accordance with such entry been delivered or exported and in the case of goods stored in a rebate store, as prescribed in rule 75.17.

- 101.02 (a) Notwithstanding the provisions of rule 101.01, any exporter or supplier of goods to such exporter or any manufacturer or importer of any goods in respect of which provisions of origin are applicable in terms of the provisions of origin of section 46 or of any agreement contemplated in section 46, 49 or 51 or any person who is in any way concerned with the furnishing of any certificate, declaration or other document relating to origin for the purposes of compliance with such provisions shall, subject to the provisions of section 44(11)(c), and except if any rule provides for a longer period, keep available for at least five calendar years –
- (i) if such person is the exporter, all export documents and all documents proving the originating status of the goods concerned specified in any protocol or any rule or any such agreement, including a copy of any proof of origin issued by an officer or a copy of any invoice endorsed with any invoice declaration, as the case may be;
 - (ii) if such person is the supplier or manufacturer of goods exported, copies of all documents proving the originating status of the goods concerned including any supplier's declaration, import documents, any origin certificate or invoice declaration, accounts and other documents proving the value-added or the ex-works price and any other documents that may be specified in any protocol or rule for proving the originating status of such goods;
 - (iii) subject to subparagraph (iv), if such person is the importer, all import documents, a copy of any proof of origin certificate or any invoice declaration, as the case may be.

- (iv)
 - (aa) if such person is the importer of goods that were cleared electronically as contemplated in rule 49.04(a), all import documents, the original of any proof of origin certificate or invoice declaration, as the case may be;
 - (bb) if such person is a licensed clearing agent that cleared goods as contemplated in rule 49.04(a), copies of the documents referred to in item (aa).
 - (b) Every Controller shall keep together with any copy of the bill of entry in respect of such –
 - (i) exports, a copy of the export invoice and the application for any certificate of origin issued or a copy of any invoice declaration, as the case may be, and the documents produced proving the originating status of the goods concerned;
 - (ii) imports that are not cleared as contemplated in rule 49.04, the proof of origin certificate and a copy of the invoice or the invoice declaration, as the case may be.
 - (c) Any exporter, manufacturer, supplier, importer or any person referred to in section 4(12) shall furnish any document relating to such proof of origin or the exportation or importation or working or processing of goods on demand to any officer authorised by the Manager: Origin Administration.
 - (d) Any period of five calendar years shall run–
 - (i) from the date any imported goods are entered for home consumption;
 - (v) from the date any exported goods are entered for export;
 - (vi) in the case of any goods placed under any other customs procedure, from the date in which the customs procedure is completed.
- 101.03 (a) The provisions of rule 101.02 shall apply *mutatis mutandis* to the origin provisions specified in Annex 1 “Concerning the Rules of Origin for Products to be traded between the Member States of the Southern African Development Community”, and its appendixes, of the Protocol on Trade concluded under Article 22 of the Treaty of the Southern African Development Community.

- (b) (i) If goods are imported and payment of any preferential rate of duty in the SADC column of Part 1 of Schedule No. 1 is claimed, but the SADC Certificate of Origin is not produced, the Postmaster shall detain the goods concerned and deliver them together with any documents produced to the Officer: Origin Administration at the office of the nearest Controller;
- (ii) such goods shall be stored in the State warehouse and for the purposes of clearance be entered for customs duty purposes at the office of the said Controller;
- (c) if proof of origin documents are completed in respect of goods exported by post, the documents concerned must be delivered to the nearest Controller and the provisions of the rules numbered 496 shall *mutatis mutandis* apply to such goods.
- (d) the Postmaster shall retain and forward to the Officer: Origin Administration at the nearest Controller's office, any SADC Certificate of Origin in respect of imported goods;
- (e) these procedures shall apply *mutatis mutandis* to goods imported under the provisions of item 460.11 of Schedule No. 4.

RULES FOR SECTION 101A OF THE ACT

Electronic communication for the purpose of customs and excise procedures Numbering of rules, meanings of expressions, delegation and application for registration as registered user

- 101A.01 (a) Where any rule reflects a number in brackets after a serial number the number in brackets refers to the subsection to which the rule relates.
- (b) (i) In these rules "the Act" means "this Act" as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964); and,
 - (ii) any word or expression to which a meaning has been assigned, either in the Act (including these rules), the user agreement or the user manual shall, unless the context otherwise indicates, have the

meaning so assigned thereto for the purposes of these rules, the user agreement and the user manual.

- (c) Subject to the provisions of section 3(2) any power, duty or function of the Commissioner contemplated in section 101A (except subsection (16)) and in these rules (including the agreement) is, unless otherwise specified in these rules, delegated to an officer occupying the post of Group Executive: Customs in the South African Revenue Service.

Mandatory electronic communication of reports and declarations

- 101A.01A(2) (a) In terms of section 101A(2)(d), the documents required to be submitted electronically and the person who must submit those documents are the following -
- (i) vessel or aircraft schedule reports specified in rule 8.06(a), by the carrier or airport authority as respectively applicable in terms of that rule.
 - (ii) vessel or aircraft arrival reports specified in rule 8.06(b), by the carrier or airport authority as respectively applicable in terms of that rule.
 - (iii) manifests and empty container lists specified in rule 8.07(b), aircraft pre-arrival manifests and final manifests specified in rule 8.07(c), rail manifests specified in rule 8.07(d) and road-manifests specified in rule 8.07(e), by the carrier, master cargo carrier, cargo carrier, groupage operator, courier, railway authority or road haulier as respectively applicable in terms of those rules.
 - (iv) vessel outturn reports specified in rules 8.08(a), (b) and (c) and aircraft outturn reports contemplated in rules 8.08(d), (e) and (f), by the container terminal operator, wharf operator, depot operator, transit shed operator or degrouping operator as respectively applicable in terms of those rules.
 - (v) imported goods or goods for export required to be declared on a SAD form in terms of any provision of the Act, by the importer, exporter or agent who is-
 - (aa) accredited in terms of section 64E of Act; or
 - (bb) not accredited in terms of section 64E of the Act and-

(A) delivers a total in excess of 10 manual declarations per calendar month; or

(B) submits a manual declaration exceeding 10 lines, to any Controller or the Commissioner.”

(b) Every person contemplated in paragraph s (a)(i) to (v) that is required to submit a report or declaration electronically to the Commissioner must register as a user in accordance with the provisions of rule 101A and comply with the rules made thereunder.

(c) The Commissioner may on application and on reasonable grounds -

(i) temporarily exempt, for such a period and subject to such conditions as the Commissioner may determine; or

(ii) permanently exempt, any person or category of persons or any such person or category of persons in respect of any procedure to which the Act relates from the provisions of this rule.

(d) These rules shall come into effect on **1 August 2009** and shall be applicable to -

(i) any voyage, flight or journey commencing on or after that date;

(ii) any cargo report contemplated in the rules for section 8 made, on or after that date; and

(iii) any SAD form submitted, on or after that date.

101A.02(3) (a) A person applying for registration to be a registered user must -

(i) apply on form DA 185 and the relevant annexure thereto and comply with all the requirements specified therein, in section 101A and these rules and any additional requirements that may be determined by the Commissioner;

(ii) submit with the application the completed user agreement in accordance with the *pro-forma* agreement specified in these rules.

(b) No practice statement is prescribed.

Agreement and user manual

- 101A.03(4) (a) (i) The user agreement and its annexures shall be in accordance with the *pro forma* user agreement and its annexures which is prescribed in terms of, and shall be deemed to be part of, this rule.
- (ii) Any amendment of the user agreement or its annexures contemplated in paragraph 18(a) of the user agreement shall be in the form and contain the particulars determined by the Commissioner.
- (b) (i) The user manual, as defined in the user agreement and as available on the SARS website, is prescribed in terms of, and shall be deemed to be part of, this rule.
- (ii) The user manual may be amended and the amendment shall be effective from the date as contemplated in paragraph 18(b) of the user agreement.
- (c) All messages transmitted between the registered user and the Commissioner, a Controller or an officer for the purposes contemplated in section 101A shall be transmitted in accordance with the requirements of that section, these rules, the user agreement and its annexures and the user manual.

Requirements specified in section 101A(5)

- 101A.04(5) (a) The terms and conditions prescribed in the pro-forma agreement shall apply for the purposes of the requirements specified in subsection (5)(a).
- (b) (i) For the purposes of subsection (5)(b), the registered user shall upon discovery of the compromise of the allocated digital signature immediately by electronic communication notify the Commissioner of such occurrence.
- (ii) This notification shall be taken to occur at the time and place as provided in section 101A(9)(c).

Approval, refusal, cancellation or suspension of registration

- 101A.05(6) (a) In addition to section 101A and these rules, the provisions of the rules for section 60 shall, where relevant, apply *mutatis mutandis* to the applicant, the applicant for registration, the refusal of any application and the cancellation or suspension of any registration.
- (b) Upon approval of an applicant as a registered user, the Commissioner shall notify the applicant in writing or by electronic communication and simultaneously advise the applicant of the particulars of its digital signature.

Keeping of records

- 101A.06(8) (a) Section 101 and the rules therefor regarding books, accounts, documents and electronic data shall *mutatis mutandis* apply in addition to the terms and conditions of the user agreement.
- (b) The period for which such records shall be kept shall be five (5) years as prescribed in paragraph 3(d)(iv) of the user agreement.

Submission of documents electronically and digital signature

- 101A.07(10) (a) Compliance with the provisions of Annexure A to the user agreement will constitute a digital signature.
- (b) The affixing of a digital signature, the authentication and the verification thereof shall be in accordance with the provisions of the said Annexure A.

Proof of electronic communications

- 101A.08(12) (a) The provisions of paragraph 9 of the user agreement shall establish the basis upon which any court of competent jurisdiction shall consider the affixing of any digital signature, any digital signature, data, electronic record, information, message, data log or the like for purposes of determining any issue to which the provisions of section 101A relate.

- (b) Whenever any officer or any employee of a registered user, as the case may be, for the purpose of the Act, these rules and the provisions of paragraph 9 of the user agreement issues a certificate in respect of any message, or a copy or printout of or an extract from such message in the data log, as defined, such certificate shall specify the following particulars -
- (i) the identity of the officer or employee who originated the message;
 - (ii) the time and date the message was dispatched from the computer system of the originator;
 - (iii) the time and date the message accessed the computer system of the addressee;
 - (iv) the time and date the acknowledgement of receipt, where required, was received on the computer system of the originator;
 - (v) in the case of the registered user, whether the computer system, at the time of receipt or of dispatch of the message complied in all respects with the provisions of the user agreement, the user manual and VANS in respect of the data log to which the certificate applies;
 - (vi) in the case of the Commissioner, that the computer system of the Commissioner, at the time of receipt or dispatch of the message complied in all respects with UN/EDIFACT standards.
 - (vii) in the case of the registered user the identity of every person authorized by the registered user at the time of the data log concerned to affix a digital signature on any document required to be signed for purposes of the Act, and the person who affixed a digital signature in respect of the message concerned;
 - (viii) that the manner in which the data in the data log was stored, the procedures employed to protect its integrity and the particulars of those elements in the retrieved data log, which were subsequently added for purposes of storage and retrieval identification conform in all respects with the requirements of section 101A, the rules, the user agreement and the user manual.

Communication by proper document if a computer system is inoperative

- 101A.09(13)
- (a)
 - (i) Whenever the computer system of the Commissioner is inoperative for whatever reason, the registered user or the registered user's intermediary shall be advised of these facts, including the expected duration thereof, electronically or by other means.
 - (ii) Whenever any registered user communicates with the Commissioner electronically through an intermediary as defined, the Commissioner must advise such intermediary of the circumstances contemplated in subparagraph (i).
 - (b) The mere fact that a computer system is inoperative shall not absolve any registered user from complying with any of the obligations under the provisions of the Act.
 - (c) In circumstances where a registered user cannot communicate electronically with the Commissioner as contemplated in section 101A, the registered user shall communicate with the Commissioner, a Controller or an officer for any of the purposes of the Act by paper document and shall continue to do so until electronic communication can be re-established in full compliance with the provisions of section 101A and the user agreement.

Acknowledgement of receipt

- 101A.10(14)
- (a) For the purposes of section 101A(9) acknowledgement shall be in the form and at the time prescribed in the user manual which may require that -
 - (i) all messages must be acknowledged; or
 - (ii) only the messages specified in the user manual must be acknowledged.
 - (b) Where acknowledgement of a message is not prescribed in the user manual, the sender may nevertheless request acknowledgement from the recipient who must acknowledge the message within the

time prescribed or if no time is prescribed as soon as reasonably possible.

- (c) (i) The dispatch of a message occurs, and the time and place of receipt thereof shall be, as prescribed in section 101A(9)(c).
- (ii) Any message shall be deemed not to have been received unless accessible in the computer to which it was sent.

Implementation arrangements for Internet users and amendment of existing user agreements

- 101A.11 (a) (i) Every registered user must apply, on a form available from the Commissioner, for amendment of the user agreement by the substitution for the existing Annexure A of the Annexure A included in this amendment of the rules, within 90 days after the date of publication of the amended rules in the Gazette.
- (ii) Where any registrant applies for amendment of a user agreement for the purpose of Internet, the registrant must submit a completed Annexure DA 185.4A6 with the application for amendment.
- (b) No registered user shall be allowed to communicate with the Commissioner, a Controller or an officer by using the Internet unless a digital certificate has been issued by the Commissioner as contemplated in Annexure A.

Communication when any tariff heading or item of any Schedule is amended

- 101A.12 Notwithstanding paragraph 15 of the agreement, a registered user may not submit any bill of entry electronically before the date of publication of any notice in the *Gazette* amending any tariff heading or item in any Schedule where the Commissioner has given notice, either by paper document or electronic communication, of such an amendment after 15:00 on the date preceding such publication.

ELECTRONIC COMMUNICATION: USER AGREEMENT
CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)
(Rule 101A.03)

1. As
(Full name of applicant – hereinafter referred to as “registered user”)

of
(Physical address of applicant – not a PO Box)

herein represented by

..... Full name Capacity
--------------------	-------------------

*duly authorised thereto by virtue of -

(a) *a resolution passed at a meeting of the Board of Directors held at
..... on theday of
.....20.....; or

(b) *the express consent in writing of all the partners of a *partnership / *members
of the close corporation / *trustees of the trust; or

(c) *being a person having the management of any other association of persons
referred to in rule 60.03(2)(a)(iv),

(*Delete whichever is not applicable)

has applied to the Commissioner for the South African Revenue Service, (the Commissioner)
to be registered as a user as provided for in section 101A(2)(b) and is desirous of entering into
a user agreement as required by the provisions of section 101A(3);

And whereas the Commissioner is satisfied that all the prescribed requirements for such
registration have been complied with, and has decided to register the applicant,

Now therefor the parties agree as follows:

2. For the purposes of this agreement the following words and phrases shall, subject to the
definitions in section 101A(1), have the following meanings ascribed thereto -

“agreement” means the user agreement and any annexures thereto;

“audit and inspect” shall have the meaning ascribed to “inspection of any books, accounts and other documents” in section 47(11)(b) and “books, accounts and other documents” include any data referred to in section 101(2B);

“data log” means the complete record of data interchanged between the parties that will include the full audit trail of the interchanges as well as the actual interchange containing the messages formatted according to the user manual;

“EDI-Network” means the sum total of computer hardware and software and the communication links used to interchange messages electronically between the parties;

“electronic data interchange”: “(EDI)” means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

“message” means data generated or stored that are structured in accordance with the user manual and transmitted electronically between the parties, including where the context admits, any part of such data;

“originator” means any party to this agreement;

“party” or “parties” means a party or parties to this agreement;

“registered user” means the party responsible for supplying data electronically to, and who is entitled to receive data from, the Commissioner and who has entered into the user agreement and is allocated a digital signature;

“SARS” means the South African Revenue Service;

“section” means, unless otherwise specified, a section of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“standards” means the uniform specifications for the electronic interchange of data contained in the user manual;

“the Act” means “this Act” as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“UN/EDIFACT” means United Nations Electronic Data Interchange for Administration, Commerce and Transport as contemplated in the user manual;

“user agreement” means this agreement regulating electronic data interchange between the parties, together with its Annexures;

“user manual” means subject to the provisions of paragraph 18.2, the handbook of commercial and technical procedures and rules and requirements applicable to the transmission of messages as available on the SARS website;

“VANS” means the Value Added Network Services used by the parties for the transmission of messages.

3. Scope

(a) The registered user understands and accepts that -

- (i) the user manual as available on the SARS website; and
- (ii) Annexure A, shall be deemed to be integral parts of this agreement.

(b) The parties agree that -

- (i) all messages transmitted between the registered user and the Commissioner shall be transmitted in accordance with the provisions of the user manual;
- (ii) all such messages, the data log, this agreement and the user manual shall be subject to -
 - (aa) the provisions of the Act; and
 - (bb) the provisions of the Electronic Communication and Transactions Act, 2002 (Act No. 25 of 2002) to the extent that -
 - (A) such provisions can be applied; and
 - (B) any provision of section 101A, these rules or the agreement do not otherwise provide.

- (c) The Commissioner confirms that the provisions contemplated in paragraph (b) shall apply equally and transparently.
- (d) The registered user -
- (i) confirms that it is aware of its liabilities and obligations under the Act and this agreement and has accepted the imposition of standards of conduct and the consequences of non-compliance with those liabilities and obligations as a pre-condition to being allowed to engage in the activities regulated by the Act and governed by this agreement;
 - (ii) (aa) confirms that where electronic data is transmitted by the computer system of the registered user which can be attributed to the registered user as provided for in section 101A(8)(b) and such data is authenticated by the digital signature of the registered user, allocated by the Commissioner as herein provided—
 - (A) without the authority of the registered user; and
 - (B) before the registered user notifies the Commissioner of such a breach of security,that such data, when received in the computer system of the Commissioner shall, as contemplated in section 101A(4)(iii), be taken to have been communicated by the registered user of such digital signature, and
 - (bb) agrees that the registered user shall be liable for all the liabilities and obligations emanating from the relevant electronic communication under the Act;
 - (iii) (aa) confirms that it is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to audit and inspect the documents, books and records of the business in respect of which the user is registered, including such records relating to individual clients of the registered user and in respect of specific transactions conducted, for or on behalf of any principal, under the control of the registered user, as well as the banking accounts and records of the registered user as far as these relate to the business for which the user is registered;
 - (bb) specifically agrees to and authorises the audit and inspection of such books and documents and business banking accounts at whatever reasonable time it is required for purposes of the Act by the Commissioner, without the authorisation of a warrant.

- (iv) (aa) undertakes to keep on the registered business premises books, accounts, records and documents relating to the transactions of the business comprising at least —
 - (A) those documents, and the like, mentioned in sections 101A(2)(a) (i), (ii) and (iii) and 101A(10)(a);
 - (B) any document supporting those mentioned in sub-paragraph (aa);
 - (C) any instructions received from its principal; and
- (bb) undertakes to keep on such registered premises or at any other place approved by the Commissioner, all data in electronic form or as electronic record, as defined in section 101A(1), sent, received generated or stored for purposes of the Act in accordance with the provisions of section 101A and as required in terms of section 101(2B);
- (cc) undertakes, notwithstanding any other provisions of the Act, to keep such books, accounts, records and documents, also in electronic form or electronic record as defined, available for such audit and inspection by the Commissioner for a period of five (5) years, calculated from the end of the calendar year in which the documents were so sent, generated, stored, lodged or required for purposes of the Act;
- (v) hereby guarantees reasonable access to the computer system of the registered user by the Commissioner for such testing, verification and audit purposes of such system as may be required for purposes of the Act and this agreement;
- (vi) hereby undertakes —
 - (aa) to use computer equipment and facilities of a class or kind which is compatible with the requirements specified in the user manual; and
 - (bb) to allow the Commissioner such access to the system as may be required to test the system and verify whether the provisions of subparagraph (aa) have been complied with; and
 - (cc) to advise the Commissioner of any intended change by the registered user of computer systems, equipment and facilities used for purposes of the Act;
- (vii) undertakes to take all reasonable steps to institute and maintain adequate administrative measures and procedures in the business of the registered user to ensure that -

- (aa) the contents of all documents submitted electronically to the Commissioner in accordance with the provisions of section 101A, for purposes of the Act, are duly verified and completed and comply in all respects with the provisions of the Act, the terms and conditions of this agreement and the user manual;
 - (bb) every person in the employ of the registered user and engaged in the conduct of any business under the Act is conversant with the provisions of the Act, the contents of this agreement and with the requirements relating to the business of the registered user and of the Commissioner and is able to answer to any question that may be required to be answered in respect of such business for purposes of the Act;
 - (cc) the Commissioner is advised as soon as it may come to the knowledge of the registered user, or any person in the employ of the registered user, that any principal of the registered user or any person in the employ of such principal has contravened, or failed to comply with, any of the provisions of the Act;
 - (dd) all information, as defined in section 101A(1), remains complete and unaltered when it is in electronic form or electronic record, as defined for purposes of the provisions of section 101A, except for the additions or changes which may occur in the normal course of communication, storage and display; and
 - (ee) such information will be available for verification, audit and certification as herein agreed to;
 - (ff) control is retained of the digital signature allocated by the Commissioner and for the prevention of its disclosure to any person not authorised to affix such signature;
- (viii) is aware of and accepts that the Commissioner may, in accordance with the provisions of section 101A(6) of the Act, cancel or suspend registration if the registered user -
- (aa) (A) is sequestrated or liquidated, as the case may be;
 - (B) no longer carries on the business for which the registration was issued;
 - (C) is no longer qualified according to the requirements prescribed in the rules; or
 - (D) in respect of its computer system fails to meet the requirements of section 101A and this agreement;

- (bb) or any person in the employ of the registered user and engaged in the conduct of any business under the Act -
 - (A) contravened or failed to comply with the provisions of the Act;
 - (B) is convicted of an offence under the Act;
 - (C) is convicted of an offence involving dishonesty; or
 - (D) failed to comply with any condition or obligation under the Act or any term or condition of this agreement.
- (cc) The registered user acknowledges that it is aware that whenever the question may arise of whether in any circumstances it took reasonable steps or exercised reasonable care in the performance of any obligation under the Act or this agreement, reliance solely on information supplied by any principal shall not be considered to be reasonable care or reasonable steps.

4. Security of data

- (a) The registered user undertakes to –
 - (i) take all appropriate steps to establish and maintain procedures to ensure that messages are properly stored, are not accessible to unauthorised persons and are not altered, lost or destroyed, and are capable of being retrieved only by the registered user or by properly authorised persons in the employ of the registered user; and
 - (ii) ensure that any message containing confidential information as designated by the sender of the message, is maintained by the registered user in confidence and is not disclosed to any unauthorised person or used by the registered user other than for the purposes of the business transaction to which it relates.
- (b) It is specifically agreed between the parties that the provisions of section 4(3) of the Act shall *mutatis mutandis* apply for purposes hereof.

5. Digital signature

The registered user and the Commissioner agree that the digital signature, which, as provided in section 101A(10), for purposes of the Act, will have the same force and effect as if it was affixed to any document required under the Act in manuscript, shall be in the form and according to the technical specifications contained in Annexure A.

6. Integrity of messages based on the user manual

- (a) The originator of any message shall take all steps reasonably necessary to ensure that all messages are complete, accurate and secure against being altered in the course of transmission.
- (b) Each party accepts responsibility for the integrity of all messages, unless any message can be shown, subject to the provisions of paragraph 3(d)(ii), to have been compromised as a result of technical failure on the part of any computer, computer system or transmission line used.
- (c) Where any message is identified or is capable of being identified as compromised it shall be re-transmitted by the originator as soon as reasonably possible in accordance with the requirements of the user manual and subject to the provisions of section 101A(8)(b).
- (d) If the addressee has reason to believe that a message is not intended for it, it shall notify the originator and delete from its system the information contained in such message but not the record of its receipt.

7. Storage of data

- (a) The electronic records, including any message sent and received and comprised in each party's data log, shall be maintained for the period and for the purposes required in paragraph 3(d)(iv)(bb) and (cc).
- (b) The data log may be retained in electronic form or other suitable electronic means provided that the data can be readily retrieved and presented in readable form in accordance with the provisions of section 101A(8) and for purposes of paragraph 9 hereof.
- (c) Each party shall be responsible for making such arrangements as may be required by the provisions of section 101A, for the data contained in the data log to be prepared as a correct record of the messages as sent and received by that party.

8. Confirmation of receipt of messages

For the purposes of section 101A(9) confirmation of receipt of messages shall be, where required, as specified in the rules and the user manual.

9. Certification of data

- (a) Each party shall ensure that a person responsible for the computer or computer system of the party concerned, whenever so required, shall certify that the data log and any reproduction including any printout, copy or extract made from it is correct and conforms in all respects to the requirements of section 101A(5) and (8) and the rules.
- (b) A certificate issued by the Commissioner under paragraph 9(a) concerning the data log whether in respect of a particular message, a series of messages, a particular time or period of time or any other like matter or any matter mentioned in section 101A(12) shall, in the absence of evidence to the contrary which raises a reasonable doubt, be sufficient and conclusive proof of the facts contained therein and shall be accepted as such by any court of competent jurisdiction in accordance with the provisions of section 101A(12).
- (c) Any such certificate shall include the particulars specified in rule 101A.08(b).

10. Intermediaries

- (a) Whenever a party to this agreement uses the services of an intermediary in order to transmit, log or process messages, such party shall be liable towards the other party in respect of every act or omission by the intermediary as if such act or omission was the act or omission of that party.
- (b) Either party may modify its election to use, not use or change VANS upon at least 14 (fourteen) days' prior written notice to the other and any such amendment to VANS shall come into operation on a date and time agreed to by the parties.

11. Term and termination

- (a) Registration as a registered user shall, notwithstanding the provisions of paragraph 13, take effect from the date the notice of registration is signed by the Commissioner as contemplated in section 101A(7)(a). Except where the Commissioner cancels or suspends a registration under the provisions of section 101A(6), a party may terminate registration by giving to the other party not less than 30 (thirty) days notice at the chosen *domicilium citandi et executandi*.
- (b) Termination of registration shall terminate this agreement, but clauses 4, 6, 7, 8, 9, 14 and 16 thereof shall survive such termination.
- (c) Termination of registration shall not affect any action required to complete or implement messages sent prior to such termination.

12. Force majeure

- (a) A party shall not be deemed to be in breach of this agreement or otherwise be liable to any other party, by reason of any delay in performance or non-performance, of any of its obligations hereunder to the extent that such delay or non-performance is due to any *force majeure* of which the party has notified such other party. The time for performance of that obligation shall, subject to the provisions of section 101A(13), be extended accordingly.
- (b) For the purposes of this clause *force majeure* means, in relation to any party, any circumstances beyond the reasonable control of that party, including, without limitation, any strike, lock-out or other form of industrial action.
- (c) If the *force majeure* were to endure for an unreasonable period making the continuation of this agreement commercially non-viable, the parties may, subject to the provisions of section 101A(13), meet to make alternative arrangements.

13. System trials / testing

Subject to any requirements of the Act or any requirement contained in the user manual, the parties agree to the following system trials and testing:

- (a) The registered user must give the Commissioner the opportunity, if so required, of attending one or more trials to observe the trial and inspect results.

- (b) The interchange of messages between the parties may undergo a test period commencing at the date that both parties have received notice of the other party's readiness to commence transmission, during which time all documents and procedures may be tested.
- (c) Upon completion of the test period each party will indicate its satisfaction with the tests and its readiness to commence the normal transmission of messages.
- (d) In the event that a party is not satisfied with the test results, the other party may agree to extend the test period or terminate registration.

14. Costs, charges, maintenance and operational support

The registered user acknowledges that it shall be responsible for -

- (a) all costs incurred by it in the connection or adaptation of their system to comply with the requirements of the user manual and this agreement;
- (b) all costs associated with the transmission of messages to the Commissioner, any Controller or officer;
- (c) the maintenance of its system to comply with any changes to the UN/EDIFACT standard; and
- (d) the operational support of its equipment at all times.

15. Availability and use

- (a) Notwithstanding the fact that official office hours are determined in the rules, the Commissioner undertakes, subject to rule 101A.12, to have its computer system available for the receipt of electronic messages, excluding the time needed for system maintenance, on a twenty-four hour basis.
- (b) If for any reason, other than routine maintenance, the computer system is not operative, the Commissioner will, as expeditiously as possible, notify the

registered user in this regard in which case the provisions of section 101A(13) shall apply for the duration of the period the system is not operative.

16. Changes / substitutions to the system

- (a) The Commissioner may change or make improvements or modifications to any part of the computer system. The Commissioner will determine the nature and timing of such modifications and shall advise the registered user of the implementation of these changes.
- (b) The parties agree that if it is intended to change the standards or procedures in the user manual by an amended version or any ancillary agreement they will take steps to change to the new standards or procedures within a reasonable time.

17. Notices

- (a) The parties hereto select as their respective *domicillium citandi et executandi* and for the purposes of giving or sending any notice provided for or required hereunder, the following physical addresses:

Registered user

Commissioner

or such other physical address, fax or telephone number as may be substituted by notice given as herein required.

Each of the parties shall be entitled from time to time by written notice to the other to vary its *domicillium citandi et executandi* to any other physical address within the Republic of South Africa.

- (b) Any notice addressed to a party at its physical or postal address shall be sent by registered mail, or delivered by hand, or sent by facsimile transmission.

18. Amendment in writing

(a) This agreement and the annexes thereto constitute the complete agreement of the parties and any amendment thereof shall be in writing.

(b) The user manual may be amended from time to time by the Commissioner and such amended copy thereof shall be published on the SARS website and each such amendment published as an amended version of such manual shall for purposes of the Act be effective from the date it is so published or any date specified in such amendment.

Signed aton this day of

AS WITNESSES:

1.
2.

FOR REGISTERED USER

Physical address:
.....
.....

Postal address:
.....

Fax no.:

Telephone no.:

E-mail:

COMMISSIONER:

Physical address:
.....
.....

Postal address:
.....

Fax no.:

Telephone no:

E-mail:

Signed at on thisday of

AS WITNESSES:

1.
2.

FOR COMMISSIONER

DIGITAL SIGNATURE

1. For the purposes of communicating using the -

(a) * X.400 protocol as described in paragraph 2,

(b) * the Internet,

the registered user and the Commissioner agree that the methodology and procedure herein described shall be accepted by them as the electronic signature provided for in section 101A(10) of the Act.

(*Delete whichever is not applicable and sign in full)

2. A digital signature for communicating using the X.400 protocol, shall be created and verified in accordance with the following procedure:

(a) The digital signature shall be contained in the message of the originator within the following parameters when the message is received on the SARS EDI Gateway:

- (i) Originator Information: Comprised of a unique identification code selected by the registered user upon initial registration to a maximum of 35 characters
- (ii) Address Information: SARS
- (iii) Application Type: As specified by SARS in the user manual
- (iv) Registered User Code: As allocated or agreed to by SARS
- (v) Registered User Password: Comprised of a password assigned by SARS
- (vi) Document Type and Version: A reference to the UN/EDIFACT document and version number
- (vii) Live or Test Indicator
- (viii) Communications parameters: Originator's communications address details as supplied on initial registration.

(b) Upon receipt of the message on the SARS EDI Gateway the validity of the digital signature will be verified automatically against the digital signature

specified and stored within the EDI Gateway.

- (c) Upon registration as a registered user the Commissioner will allocate a digital signature to the registered user which will be stored in the EDI Gateway and comprise the following:
 - (i) Communications profile; and
 - (ii) registered user profile containing the registered user's password.
- (d) Notification of the password and password qualifier by the Commissioner will be in the manner as specified by the Commissioner;

- (e) The digital signature shall be authenticated for purposes of the Act by validating -
 - (i) the communications profile; and
 - (ii) the registered user profile,
stored within the EDI Gateway.
 - (f) Upon receipt of a message at the SARS EDI Gateway—
 - (i) the digital signature is automatically validated or invalidated; and
 - (ii) an electronic acknowledgement of receipt of the message is generated and automatically sent to the originator.
3. A digital signature, for communicating using the Internet, shall be created and verified in accordance with the following procedure:
- (a) SARS uses PKI (Public Key Infrastructure) for authenticating and securing business data communicated over the Internet. The digital signature attached to messages must be created in accordance with the specification as contained within the user manual using the digital certificate obtained from the Commissioner.
 - (b) The digital signature shall be contained in the message of the originator within the following parameters when the message is received on the SARS EDI Gateway:
 - (i) Originator Information: Comprised of a unique identification code selected by the registered user upon initial registration to a maximum of 35 characters
 - (ii) Address Information: SARS
 - (iii) Application Type: As specified by SARS in the user manual
 - (iv) Registered User Code: As indicated or agreed to by SARS
 - (v) Registered User Password: Comprised of a password assigned by SARS
 - (vi) Document Type and Version: A reference to the UN/EDIFACT document and version number
 - (vii) Live or Test Indicator
 - (viii) Communications parameters: Originator's communications address details as supplied on initial registration.

- (c) Upon receipt of the message on the SARS EDI Gateway the validity of the digital signature will be verified automatically against the digital signature specified and stored within the EDI Gateway.
 - (d) Upon registration as a registered user the Commissioner will allocate a digital signature and issue a digital certificate to the registered user which will be stored in the EDI Gateway and comprise the following:
 - (i) communications profile; and
 - (ii) registered user profile containing the registered user's password.
 - (e) Notification of the digital certificate, password and password qualifier by the Commissioner will be in the manner as specified by SARS in the user manual.
 - (f) The digital signature shall be authenticated for purposes of the Act by validating -
 - (i) the communications profile; and
 - (ii) the registered user profile,
stored within the EDI Gateway.
 - (g) Upon receipt of a message at the SARS EDI Gateway -
 - (i) the digital signature is automatically validated or invalidated; and
 - (ii) an electronic acknowledgement of receipt of the message is generated and automatically sent to the originator.
4. The completion of this process, when the data and information contained in the electronic record constituting the message is accepted within the computer system of the Commissioner, shall for purposes of the Act be deemed to be the affixing of a digital signature to the message received.

RULE FOR SECTION 105 OF THE ACT

Deleted 31 March 1999 with effect from 1 April 1999.

RULES FOR SECTION 106 OF THE ACT

Samples

- 106.01 For the purpose of section 106(1) an officer may, apart from taking samples of the goods and for the purposes mentioned therein, also take samples of such or any other goods for such or any other purpose as required under any other law.
- 106.02 The officer taking such samples shall issue a receipt therefore reflecting full particulars of such samples, duly signed and dated with an official customs and excise stamp and his name reflected in clear capital letters under his signature.

RULES FOR SECTION 119A OF THE ACT

Rule 119A.00

- "(a) These rules provide for the adaptation of sections as contemplated in section 119A and rules made thereunder.
- (b) The administration of all customs and excise laws and procedures relating to any section adapted under the provisions of section 119A as stated in these rules shall, unless otherwise specified-
- (i) be subject to compliance with the adapted section and the rules made thereunder; and
 - (ii) if any other rule is in conflict with any adapted section and the rules made thereunder, the provisions of such adapted section and rules shall prevail over the provisions of such other rule.
- (c) (i) In these rules, any meaning ascribed to any word or expression in the Act, shall bear the meaning so ascribed and unless the context otherwise indicates-
"customs and excise laws and procedures" shall have the meaning assigned thereto in rule 59A.01.
- (ii) In the numbers of the rules-

- (aa) the letter "S" after "119A" followed by digits and letters, as may be applicable, specifies the section adapted; and
- (bb) the letter "R" after "119A" followed by digits and letters, as may be applicable, specifies the rule made for the section adapted.

Adaptation of section 39(1)(c)

119A.S39(1)(c) The said person shall further produce the transport document or such other document in lieu thereof as may be approved by the Commissioner, invoices as prescribed, shipper's statement of expenses incurred by him, copy of the confirmation of sale or other contract of purchase and sale, importer's written clearing instructions, unless exempted by rule, any permit, certificate or other authority issued under any other law authorising the importation of goods and such other documents relating to such goods as the Controller may require in each case and answer all such questions relating to such goods as may be put to him by the Controller, and furnish in such manner as the Commissioner may determine such information regarding the tariff classification of such goods as the Commissioner may require: Provided that if such person is in possession of all documents necessary to complete and submit a valid entry as contemplated in section 40(1), those documents-

- (i) whether electronically or in paper format must not accompany the bill of entry transmitted or delivered for processing; and
- (ii) must be submitted upon request to the Commissioner as required in terms of rule 119A.R39(1)(c).01.

Rules in terms of 119A.S39(1)(c)

119A.R39(1)(c).01 Where the Commissioner requests the submission of documents as contemplated in adapted section 119A.39(1)(c), such documents must be submitted in paper format or by facsimile transmission or electronically to reach the Commissioner during the official hours of attendance prescribed in item 201.10 of the Schedule to the Rules at the place specified and within the time indicated in such request

119A.R39(1)(c).02 The documents contemplated in adapted section 119A.39(1)(c) must be kept as contemplated in section 101 and the rules made thereunder available for inspection by an officer.

Adaptation of section 39(2B)

119A.S39(2B) The Commissioner may specify by rule the documents to be produced by the exporter in respect of any goods exported or any class or kind of goods exported or any goods exported in circumstances or to a destination specified by him.

Rules in terms of 119.S39(2B)

119A.R39(2B).01(a) The exporter shall produce invoices, exchange control form, exporter's written clearing instructions, any document prescribed in any other provision of the Act, any permit, certificate or other authority issued under any other law authorising the exportation of goods and such other documents relating to such goods as the Controller may require in each case

(b) Notwithstanding paragraph (a) where the exporter is in possession of all documents necessary to complete and submit a valid entry contemplated in section 40(1), those documents-

(i) whether electronically or in paper format, must not accompany the bill of entry transmitted or delivered for processing; and

(ii) must be submitted upon request to the Commissioner as required in terms of rule 119A.R39(2B).02.

119A.R39(2B).02 Where the Commissioner requests the submission of documents as contemplated in rule 119A.R39(2B).01, such documents must be submitted in paper format or by facsimile transmission or electronically to reach the Commissioner during the official hours of attendance prescribed in item 201.10 of the Schedule to the Rules at the place specified and within the time indicated in such request.

119A.R39(2B).03 The documents contemplated in rule 119A.R39(2B).01 must be kept as contemplated in section 101 and the rules made thereunder available for inspection by an officer.

Adaptation of section 64B (1)

- 119A.S64B (1) (a) No person shall, for the purposes of this Act, for reward make entry or deliver a bill of entry relating to any goods on behalf of any principal contemplated in section 99(2), unless licensed as a clearing agent in terms of subsection (2) or registered as an agent as provided in the rules for section 59A.
- (b) The provisions of this Act regulating the activities of a licensed clearing agent shall apply with the necessary changes to a registered agent engaged in such activities.
- (c) The licensed clearing agent or registered agent shall be liable for the fulfillment of all obligations imposed on a foreign principal by this Act as contemplated in section 99(2).”

Adaptation of section 64D (1)

- 119A.S64D(1) No person, except if exempted by rule, shall remove any goods in bond in terms of section 18(1)(a) or for export in terms of section 18A, or any other goods that may be specified by rule unless –
- (a) licensed as a remover of goods in bond in terms of subsection (3); and
- (b) if that person is not located in the Republic, is represented in the Republic by a person registered as an agent as provided in the rules for section 59A.

Adaptation of section 101A(10)(d)

- 119A.S101A(10)(d)(i) The Commissioner may, notwithstanding anything to the contrary contained in this section, permit, as prescribed by rule, any person who is registered as a user and has entered into a user agreement as contemplated in subsection (3), to submit electronically any communication referred to in paragraph (a), by using the Internet, except for the purposes of e-filing.
- (ii) Subject to such exceptions, adaptations or additional requirements as the Commissioner may prescribe by rule, the provisions of this

section shall apply to the submission of such communication, except for purposes of e-filing.

- (iii) "Internet" shall have the meaning assigned thereto in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).
- (iv) Notwithstanding anything to the contrary in this section or any other provision of this Act, but subject to such exceptions, adaptations or additional requirements as the Commissioner may prescribe by rule, the regulations issued in terms of section 66(7B) of the Income Tax Act, 1962, prescribing procedures for submitting returns in electronic format and requirements for electronic signatures published in Government Notice No R.1454 of Government *Gazette* 25557 of 8 October 2003, read with section 269(1) of the Tax Administration Act, 2011 (Act No. 28 of 2011) shall apply, with the necessary changes, for the purposes of e-filing.
- (v) Any reference in this section or in any rule made for the section to "regulations" or "a regulation" shall mean the regulations referred to in subparagraph (iv).
- (vi) (aa) The provisions of subsections (11) and (12), shall, subject to item (bb), apply with the necessary changes to any electronic signature and other electronic communications contemplated in the regulations.
(bb) For the purposes of this paragraph and subsections (11) and (12)(a) the words "the regulations" must be substituted, respectively, for the words "the provisions of subsection (4)" in subsection (11) and in subsection 12(a) for the words "the provisions and conditions of the user agreement referred to in subsection (4)."

Rules in terms of 119A.S101A(10)(d)

119A.R101A(10)(d) (a) For the purposes of applying the regulations –

"account" in relation to the document required to be submitted in respect of the payment of duty in terms of any provision of the Act and any other rule, must be regarded as a return;

"return" contemplated in the e-filing service of the regulations includes –

- (i) an account for payment of excise duty, fuel levy, Road Accident Fund levy or environmental levy submitted by a licensee of a customs and excise warehouse as specified in the rules for the sections imposing such duty or levies;
- (ii) a tax account for payment of air passenger tax as specified in the rules for section 47B;
- (iii) a return submitted for payment of diamond export levy as specified in the rules made under the Diamond Export Levy (Administration) Act, 2007 (Act No. 14 of 2007); and
- (iv) any document for payment of excise duty on locally produced goods stored in a special customs and excise warehouse licensed for the operation of a duty and tax free shop or the supply of stores and spares and equipment to foreign-going ships and aircraft as respectively contemplated in rules 21.04 and the rules for section 38A;
- (v) any supporting document of an account or return and any declaration to be made as contemplated in paragraph (c);

"taxpayer" includes –

- (i) the licensee of a customs and excise warehouse;
- (ii) a registered aircraft operator or an aircraft operator who is liable to register;
- (iii) except for the purposes of paragraph (b), a person who must effect payments by using e-filing as contemplated in paragraph (f); or
- (iv) a registered person who is required to submit a return in terms of the Diamond Export Levy (Administration) Act, 2007 (Act No. 14 of 2007);

“tax practitioner” means any agent provided for in this Act for any person referred to in subparagraph (i), (ii) or (iii).

- (b)
 - (i) Notwithstanding any provision for submitting of accounts, a taxpayer referred to in subparagraph (i), (ii) or (iv) of the definition of “taxpayer”, or a tax practitioner, as applicable, must apply as contemplated in the regulations for registration as an electronic filer to complete and submit returns and make payments in terms of the e-filing service; and
 - (ii) when registered, the taxpayer or tax practitioner must complete and submit accounts and payments prescribed in the rules in the format and in accordance with the procedures specified in the e-filing service.”
- (c) For the purposes of section 39(2A) and any other provision requiring a validating bill of entry or SAD form to be submitted with an account for payment of duty, a declaration that must be completed and signed for e-filing shall be regarded as such a validating bill of entry or SAD form.
- (d) From the date contemplated in paragraph (e) –
 - (i) payment of duty code ZDP or ZOL; and
 - (ii) specific rebates of excise duties (Schedule No. 6 to the Act) code ZGR,may no longer be used by any person as they will be incorporated in the return.
- (e) A person referred to in subparagraphs (i), (ii) or (iv) of the definition of "taxpayer", or a tax practitioner, as applicable, may continue using existing methods for submitting accounts and payments, but after 30 January 2014 returns and payments in respect of those returns or any other amounts required to be paid in terms of this Act, must be submitted to SARS only in terms of the e-filing service.

- (f) Despite anything to the contrary in these rules or any other provision of this Act, any person who, in respect of declarations for imported goods –
 - (i) is required to declare the goods electronically in terms of rule 101A.01A(2)(a)(v); and
 - (ii) pays any amount of duty in respect of those declarations or other amounts required to be paid in terms of this Act; must, whether or not registered for deferment of payment of duty in terms of the proviso to section 39(1)(b), apply for registration as an e-filer and effect payment of those amounts by using the e-filing service provided for in these rules.
- (g) A person referred to in subparagraph (iii) of the definition of "taxpayer", or a tax practitioner, as applicable, may continue using existing methods for payment of amounts contemplated in paragraph (f), but –
 - (i) after 30 January 2014, a person who is registered for deferment of payment of duty in terms of the proviso to section 39(1)(b); and
 - (ii) after 28 February 2014, any other person included in paragraph (f)(i), may only pay such amounts by using the e-filing service provided for in these rules.

Adaptation of section 113(2)

119A.S113(2)

Goods which purport to have been imported under a permit, certificate or other authority in terms of any provision of this Act or any other law shall be deemed to have been imported in contravention of such provision unless the permit, certificate or other authority in question is -

- (a) in possession of the importer at the time of entry for home consumption; and
- (b) upon request produced to the Controller.

RULES FOR SECTION 120 OF THE ACT

120.01 Hours of attendance at offices

- (a) Hours of general attendance are prescribed in item 201.00 of the Schedule to the rules.
- (b) Hours of attendance at designated commercial ports are prescribed in rule 120A.03.

120.02 Definitions

For the purposes of these rules and form DA 73 –

"client" means any person participating in any activity regulated by the Act;

"customs and excise laws and procedures" shall have the meaning assigned thereto in rule 59A.01(a);

"extra attendance" means attendance requested on form DA 73 for purposes specified in these rules where any officer is required to perform such service outside the prescribed hours of attendance for that office or for that service at such office;

"service" includes the performance of any function or the exercise of any power in terms of the Act;

"special attendance" means attendance requested on form DA 73 for any customs and excise service specified in these rules where an officer is required to perform such service during the prescribed hours of attendance for that office or for that service at such office;

"the Act" means "this Act" as defined in section 1.

120.03 Application for special or extra attendance

- (a) Application in duplicate must be made on form DA 73 to the Controller even if no charge is levied for the attendance.
- (b) Where relevant, copies of documents relating to the attendance must accompany the application.
- (c)
 - (i) Application may be made for the attendance of one officer in respect of any service contemplated in these rules, except where -
 - (aa) the applicant requests the service of more than one officer and the Controller approves the request;
 - (bb) goods must be packed and sealed for export or exported under customs supervision in terms of the Act; or
 - (cc) the Controller decides on reasonable grounds that the attendance of more than one officer is required.
 - (ii) In considering whether two or more officers must perform any extra attendance, the Controller may take into account -
 - (aa) the safety of officers;
 - (bb) for the purposes of the organisation and implementation of the service, such matters as the availability of officers or time constraints, urgency, extent, nature or location of the service;
 - (cc) any other matter that may be reasonably necessary to achieve the efficient and effective administration of a service.
 - (iii) The Controller may arrange for a member of the South African Police Service to accompany the officer or officers on, and be present at the attendance.

120.04 **Charges and payment for special or extra attendance**

Charges for special attendance

- (a)
 - (i) Except in the case of special attendance referred to in subparagraph (ii), the charge for special attendance is-
 - (aa) in the case where any provision of this Act specifies a time prior to the attendance before which the Controller must be notified and the Controller is not so notified, R200 for the first hour or part thereof;

- (ii) (aa) Where the Controller does not require security, the amount due must be paid by 12:00 on the first official working day after the attendance ends.
- (bb) Where the Controller requires security, the person requesting the attendance must deposit prior to its commencement an amount equal to the total amount of the charges as estimated by the Controller.

120.05 Transportation and accommodation

The applicant for special or extra attendance must provide transport to and from the place where the services are to be rendered and accommodation for officers at such place.

120.06 Services for which special or extra attendance is not charged

Special or extra attendance, as the case may be, is not charged in respect of –

- (a) the examination of post office parcels;
- (b) the sealing of ship's or aircraft stores;
- (c) the rummaging of ships or aircraft;
- (d) the reporting of the arrival or departure of ships at a place of entry or aircraft at a customs and excise airport;
- (e) the application for release, examination and release of human remains;
- (f) the entry, examination and release of goods imported –
 - (i) for the relief and distress of persons in cases of famine or other national disaster;
 - (ii) under any technical assistance agreement; or
 - (iii) in terms of any obligation under any international agreement to which the Republic is a party;

- (g) inspection of premises, audit of transactions and the verification of stock of licensees or registrants for the purposes of any activities regulated by the Act;
- (h) any attendance required by the Commissioner or a Controller unless otherwise specified in the Act.

Services for which special or extra attendance is charged

- 120.07 (a) Special attendance is charged-
- (i) where any provision of the Act requires that special attendance charges must be levied;
 - (ii) subject to rule 120.06 in respect of any examination of goods where application is made for abandonment or destruction.
 - (iii) for customs and excise supervision -
 - (aa) where samples are taken by an importer in a customs and excise warehouse;
 - (bb) where goods are packed or repacked at an exporter's premises or any other premises as requested by the exporter;
 - (cc) in respect of the examination of goods entered on a sight bill of entry;
 - (iv) the reporting of unscheduled light aircraft landing at a customs and excise airport from a destination outside the Republic and as contemplated in item 200.04 of the Schedule to the rules;
 - (v) for certification or photocopying of documents.
- (b) Extra attendance is charged -
- (i) where any provision of the Act requires that extra attendance charges must be levied;
 - (ii) any other customs and excise service where extra attendance is required by a client unless the Act otherwise provides.
- (c) Where an agent requests attendance, a separate charge is not applicable in respect of each importer for whom the service is required.

- (d) The charge for extra attendance is not affected by the number of services performed during such attendance by the officer for the client who requested the attendance.

Surety bonds

- 120.08 Whenever, for purposes of the Act, security is furnished in the form of a surety bond such bond shall be given by an approved banking or insurance institution and shall be in an approved form.
- 120.09 Any person whose surety bond has been accepted may give the Controller concerned thirty days, notice of withdrawal of such bond and after the expiry of this period his obligations under the bond will terminate in respect of transactions entered into thereafter. The surety, however, remains liable in respect of transactions entered into prior to the expiry of the period of notice until the Controller has satisfied himself that all obligations under such bond have been fulfilled and he cancels it.

Penal provisions

- 120.10 Any person who contravenes any provision of these rules or who fails to comply with any such provision with which it is his duty to comply, shall, even where such contravention or failure is not elsewhere declared an offence, be guilty of an offence.
- 120.11 Any person guilty of an offence under these rules shall, where no punishment is expressly provided for, for such offence, be liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.
- 120.12 (a) No payment by cheque in excess of R50 000, including any payment relating to value-added tax on imported goods as contemplated in the Value-Added Tax Act, 1991 (Act No. 89 of 1991), may be made unless the Commissioner, having regard to the circumstances, directs otherwise.
- (b) For the purposes of paragraph (a), the total payments by cheque by any person on any day may not exceed R50 000 for any number of payments required to be made on that day.
- (c) No payments may be made by cheque if any person has, in the preceding three years, made two payments by cheque to SARS that were “referred to drawer”
- (d) The payment made by cheque must be supported by a SARS payment advice notice that is not older than seven days from the date of the notice.”

(Amended by Notice R.600 published by GG 37890 on 8 August 2014)

CHAPTER XIII

Rules in terms of section 120(1)(e) and (o) of the Customs and Excise Act, 1964, and for the purposes of section 13(1)(iii) of the Value-Added Tax Act, 1991 (Act 89 of 1991), regarding the importation of goods into the Republic from or through Botswana, Lesotho, Namibia or Swaziland and the declaration procedures for the exportation of goods from the Republic into or through Botswana, Lesotho, Namibia or Swaziland

Declaration procedures in respect of “commercial goods” removed within the common customs area (the Republic, Botswana, Lesotho, Namibia and Swaziland)

- 120A.01 (a)
- (i) In respect of all declarations of goods imported into the Republic from or through Botswana, Lesotho, Namibia or Swaziland (the BLNS countries) or exported from the Republic into or through a BLNS country, the same procedures apply as provided for in terms of the Customs and Excise Act, 1964, with regard to imports into the Republic from countries other than the BLNS countries, or exports from the Republic into countries other than the BLNS countries.
 - (ii) (aa) For the purposes of these rules–
“**commercial goods**” means goods contemplated in rule 15.01 or any vehicle of which the particulars are not required to be declared on form DA 331 or forms TC-01 and TRD1 in accordance with the requirements specified in that rule and those forms;
(bb) Subject to rule 15.02, any commercial goods imported from or exported to a BLNS country must be entered in terms of the provisions of section 38.
- (b)
- (i) The SAD 500 shall be used for the declaration to an officer, as defined in the Customs and Excise Act, 1964, or to any other authority designated by the Commissioner for the South African Revenue Services (the Commissioner), at a “designated commercial port” and during the hours as set out in these rules, in respect of all “commercial goods” imported into the Republic from a BLNS country or exported from the Republic into a BLNS country for the purposes of the Value-Added Tax Act, 1991.
 - (ii) Any goods or any vehicle that is required to be declared on form DA 331 must be declared only on that form when imported into the Republic from a BLNS country or from outside the common customs area through a BLNS country or exported from the Republic to a BLNS country or through a BLNS country to a destination outside the common customs area.”
 - (iii) Full particulars as required on the SAD 500 shall be furnished by the person declaring such goods.

- (iv) (aa) The SAD forms may be submitted electronically in compliance with the Act and the rules relating to the electronic clearance of goods.
 - (bb) If goods which have been cleared electronically for removal under a customs procedure to a destination outside the Republic are removed by road, a copy of the processed SAD form and proof of release of the goods must accompany the driver
- (c)
- (i) Where “commercial goods” which originated in a BLNS country, are **temporarily imported** into the Republic from a BLNS country or are **removed in transit** from a BLNS country through the Republic for export or re-export, full particulars as required on the SAD 500 must be furnished by the person declaring such goods and the SAD 500 must clearly be marked to indicate “In Transit” or “Temporary”.
 - (ii) The person referred to in section 7(1)(b) of the Value-Added Tax Act, 1991, may, at the discretion of the Commissioner, be allowed to enter such “commercial goods” **without** the payment of Value-Added Tax (VAT) or **without** a provisional payment to cover the VAT on “commercial goods” so declared.
 - (iii) The person concerned shall, however, remain liable for the payment of VAT on such “commercial goods” so imported until it is proven that such “commercial goods” have been duly taken out of the Republic.
 - (iv) If the person concerned fails to submit such proof within—
 - (aa) a period of six months from the date goods temporarily imported were declared for importation into the Republic or such longer period as the Commissioner in exceptional circumstances may allow;
 - (bb) a period of 30 days from the date the goods in transit through the Republic were declared for transit or such longer period as the Commissioner in exceptional circumstances may allow;
 the VAT due must be paid forthwith on the goods so declared for temporary import or for transit through the Republic and such person may be required to make provisional payments in future.

- (v) A copy of the SAD 500 with the SAD 502 or SAD 505 duly completed to the extent applicable by all the offices on the route and including the office of final destination must be returned to the Controller at the office of commencement in the Republic within a period of 30 days after such entry.
- (vi) The SAD 503 – Customs Declaration Form (Bill of Entry Query Notification / Voucher of Correction) must be used for the correction of the SAD 500, SAD 502 and SAD 505 in respect of all “commercial goods” imported into the Republic from a BLNS country or exported from the Republic into a BLNS country.

Payment procedures in respect of “commercial goods” imported into the Republic from the BLNS countries

- 120A.02 (a) The same procedures regarding the calculation, valuation and payment of VAT on the import of “commercial goods” into the Republic from countries other than BLNS countries as provided for in the Customs and Excise Act, 1964, will apply with regard to imports of “commercial goods” into the Republic from the BLNS countries: Provided that, were “commercial goods” have their origin in BLNS country, the following exceptions will apply –
- no customs duty shall be levied;
 - the value of “commercial goods” shall not be increased by the factor of 10 per cent as contemplated in section 13(2)(a) of the Value-Added Tax Act, 1991;
 - except in the circumstances contemplated in rule 120A.01(c), “commercial goods” **temporarily imported** into the Republic from a BLNS country, or “commercial goods” **removed in transit** from a BLNS country through the Republic for re-export, **shall** be subject to VAT or VAT shall be covered by a provisional payment; and
 - payment of VAT must be made in accordance with the procedures prescribed in paragraphs (c), (d) and (e).
- (b) VAT must be levied on all “commercial goods” imported into the Republic from a BLNS country, except for those goods –
- (i) stipulated in paragraph (a);
 - (ii) stipulated in rule number 120A.04 paragraph (a), (b) and (c)(i); and

- (iii) set forth in Schedule 1 to the Value-Added Tax Act, 1991, but for the purposes of these rules item number 407.02 description number 00.00/02.00 only to the extent of a total value not exceeding R1 250.
- (c) The person referred to in section 7(1)(b) of the Value-Added Tax Act, 1991 shall pay the VAT due in the currency of the **Republic** to an officer, as defined in the Customs and Excise Act, 1964, or to any other authority designated by the Commissioner, at the time of entry into the Republic at a “designated commercial port”.
- (d) Such payments shall be made –
 - (i) in cash;
 - (ii) by means of a bank guaranteed cheque;
 - (iii) by means of a traveller’s cheque;
 - (iv) by means of a postal order issued by the Post Office Limited; or
 - (v) by means of a money order issued by the Post Office Limited.
- (e) The Commissioner may allow the deferment of payment of VAT on “commercial goods” imported into the Republic from a BLNS country subject to such conditions as the Commissioner may prescribe.

Designated commercial ports

- 120A.03
- (a) (i) The importation of “commercial goods” into the Republic from or through a BLNS country or the exportation of “commercial goods” from the Republic into or through a BLNS country **must**, subject to the provisions of paragraph (d) **be made through** one of the designated commercial ports designated in paragraph (b).
 - (ii) Goods that do not fall within the definition of “commercial goods” as defined in these rules and where such goods are exported from the Republic into a BLNS country, must also be exported through a designated commercial port where it is required for the purposes of section 11(1)(a) or section 44(9) of the Value-Added Tax Act, 1991.
 - (iii) Subject to paragraph (d), any goods or any vehicle that is required to be declared on form DA 331 must, if imported from or through or exported to or through a BLNS country as contemplated in rule

120A.01(b)(ii), be so imported or exported through a designated commercial port.

- (b) (i) Such imports or exports **by road** will only be entertained during the specified hours of attendance at the following places –

Land border posts	Hours
<i>Between the Republic and Botswana</i>	
Grobler's Bridge	08:00 – 18:00
Kopfontein	06:00 – 22:00
Skilpadshek	06:00 – 22:00
Ramatlabama	06:00 – 20:00
<i>Between the Republic and Lesotho</i>	
Qacha's Nek	07:00 – 20:00
Ficksburg Bridge	06:00 – 22:00
Maseru Bridge	06:00 – 22:00
Caledonspoort	07:00 – 20:00
Van Rooyenshek	07:00 – 20:00
<i>Between the Republic and Namibia</i>	
Nakop (Narogas)	06:00 – 22:00
Vioolsdrift	06:00 – 22:00
<i>Between the Republic and Swaziland</i>	
Mananga	07:00 – 18:00
Jeppes Reef	07:00 – 20:00
Oshoek	07:00 – 22:00
Nerston	08:00 – 18:00
Mahamba	07:00 – 22:00
Golela	07:00 – 22:00

- (ii) Such imports or exports **by rail** will only be entertained during the specified hours of attendance at the following places –

Railway stations	Hours
Upington (Tuesday to Sunday)	07:00 – 20:00

Special arrangements for the importation or exportation of “commercial goods” or goods as contemplated in paragraph 120A.03(a)(ii) must be made in respect of the following railway stations by prior arrangement with the Controller of Customs –

- 1 Germiston
- 2 Golela
- 3 Mafikeng
- 4 Maseru Bridge
- 5 Johannesburg

- (iii) Such imports or exports by air will only be entertained during the specified hours of attendance at the following places –

Airports:		Hours		
		Unaccompanied commercial or movable goods (weekdays only)		Accompanied commercial or movable goods
		Exports:	Imports:	
Cape Town	Int	07:45 – 16:15	08:00 – 15:00	00:00 – 24:00
King Shaka	Int	07:30 – 16:00	07:30 – 14:30	00:00 – 24:00
Gateway (Pietersburg)		08:00 – 17:00	08:00 – 17:00	00:00 – 24:00
OR Tambo	Int	08:00 – 16:30	08:00 – 15:00	00:00 – 24:00
Lanseria		08:00 – 17:00	08:00 – 17:00	00:00 – 24:00
Nelspruit		08:00 – 17:00	08:00 – 17:00	00:00 – 24:00
Port Elizabeth		07:30 – 16:00	07:30 – 14:30	00:00 – 24:00

- (iv) Such imports or exports **by sea** will only be entertained during the specified hours of attendance at the following places:

Harbours:	Hours		
	Unaccompanied commercial or movable goods (weekdays only)	Accompanied commercial or movable goods	
	Exports:	Imports:	
Cape Town	07:30 – 16:15	08:00 – 15:00	00:00 – 24:00
Durban	07:15 – 16:00	08:00 – 15:00	00:00 – 24:00
East London	07:30 – 16:15	08:00 – 15:00	00:00 – 24:00
Port Elizabeth	07:30 – 16:15	08:00 – 15:00	00:00 – 24:00
Port of Ngqura	07:30 – 16:15	08:00 – 15:00	00:00 – 24:00
Richards Bay	07:15 – 16:00	08:00 – 15:00	00:00 – 24:00
Mossel Bay	07:30 – 16:15	08:00 – 15:00	00:00 – 24:00
Saldanha	07:30 – 16:15	07:30 – 16:15	00:00 – 24:00

- (c) The Controller, as defined in the Customs and Excise Act, 1964, may extend the hours of attendance as set out in rule 120A.03(b) in circumstances that he or she deems necessary.
- (d) The removal of “commercial goods” through places other than the designated commercial ports and the declaration of such goods at other places as those specified in rules 120A.03(b), may be allowed in exceptional circumstances on application to the Commissioner, subject to such conditions as the Commissioner may prescribe.

Import control measures in respect of goods subject to anti-dumping, countervailing or safeguard duties entering South Africa from or through a BLNS country

120A.04 Whenever goods which are subject to anti-dumping, countervailing or safeguard duties prescribed in Schedule No. 2 of the Act, or in respect of which import restrictions are imposed from a specific country or countries in terms of any other law, are imported from or through a BLNS country, the requirements of rule 46.04 shall apply *mutatis mutandis*.